No. 2. Vol. 2. 701.

SUPREME COURT OF THE UNITED STATES

No 148.

ADAM L. MILLS & AL., PLAINTIFFS IN ERROR,

vs.

ST. CLAIR COUNTY & JAMES HARRISON.

IN ERROR TO THE SUPREME COURT OF THE STATE OF ILLINOIS.

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Be it remembered, that heretofore, to wit, on the fourteenth day of October, in the year of our Lord one thousand eight hundred and forty-five, there was filed in the office of the clerk of the supreme court of the State of Illinois the transcript of a record in appeal from the circuit court of St. Clair county, which said transcript is in the words and figures following, to wit:

STATE OF ILLINOIS,

County of St. Clair, sct:

At a regular term of the circuit court, within and for the county of St. Clair, and State of Illinois, begun and held by the Hon. Walter B. Scates, at the court house, in the town of Belleville, in said county, on the second Monday of May, A. D. 1845, in a certain cause then pending in said court, in chancery, wherein Adam L. Mills, John H. Gay, Charles Mullikin, William C. Wiggins, Andrew Christy, Elizabeth Christy, Mary T. Christy, Melanie Christy, which Melanie is the widow, and which said Elizabeth and Mary T. Christy are the only children and heirs at law of Samuel C. Christy, deceased, minors, suing by said Melanie, their next friend; Emily Pratte, widow of Bernard Pratte, deceased, Ramsey Crooks and Emily, his wife, Bernard Pratte, Louis Penguet and Therese, his wife, Stephen F. Niedlet and Celeste, his wife, Louis V. Bogy and Pelagie, his wife, Joseph Blaine and Aimie, his wife, were complainants, and the county of St. Clair, and James Harrison, were defendants, the following proceedings were had:

The said complainants having, on the eighth day of March, A. D. 1845, filed in the clerk's office of said court their bill of complaint, and exhibits thereto, in words and figures following, to wit:

Bill of complaint.

To the honorable the circuit court of the county of St. Clair, sitting as a court of chancery, humbly complaining, sheweth unto your honor, your orator, Adam L. Mills, John H. Gay, Charles Mullikin, [John O. Fallon,] William C. Wiggins, Andrew Christy, Elizabeth Christy, Mary T. Christy, Melanie Christy, which Melanie is the widow, and which said Elizabeth Christy and Mary T. Christy are the only children and heirs at law of Samuel C. Christy, deceased, said children being infants, and appearing by said Melanie, their next friend and mother; Emily Pratte, widow of Bernard Pratte, deceased, Ramsey Crooks and Emily, his wife, Bernard Pratte, Louis Penguit and Theresa, his wife, Stephen T. Niedlet and Celeste, his wife, Louis V. Bogy and Pelagie, his wife, Joseph Blaine and Aimie, his wife; which said Emily Crooks, Bernard Pratte, Therese Penguit, Celeste Niedlet, Pelagie Bogy, and Aime Diane Blaine, are children and only heirs at law of Bernard Pratte, deceased; that from the earliest period in the

settlement of the western part of Illinois there has existed a constant intercourse between the inhabitants of that county and the town of St. Louis, in the present state of Missouri; this intercourse has increased with the rapid increase of population in Illinois; and as St. Louis was the only point on the Mississippi river, so far as that river was a boundary of Illinois, where there was any commerce of importance, the citizens of Illinois have felt considerable interest in maintaining the intercourse.

In the year eighteen hundred and nineteen, and previous to that year, there was scarcely any navigation of the Mississippi by steam power, and the citizens of Illinois, in passing to St. Louis, could only journey by land to the river, at a point opposite the town, and cross the river by means of an ordinary ferry.

The ferry as it had then been kept was only furnished with common boats, propelled by men with oars; so that, when the river was more than usually high, or was affected by high winds, or when drift-wood or ice, in large quantities was floating on its surface, the passage became not only difficult, but often exceedingly dangerous, and thus vexatious and expensive delays were occasioned to those who desired to cross the stream. The people of Illinois felt that their own interests and convenience required that some expedient should be adopted, by which the difficulties and inconvenience which they experienced in visiting St. Louis should be obviated, and they judged it necessary to afford such encouragement to individual enterprise as would induce the employment of capital in increasing the facilities of transportation required at this point.

One Samuel Wiggins, an enterprising citizen, believing he could himself derive advantage from the accommodation of the public, was willing to embark in the business of maintaining a ferry which would render the transportation certain and secure. Under these circumstances, and with these views, an act was passed by the people of the State of Illinois, represented in the general assembly, which was approved on the second day of March, in the year eighteen hundred and nineteen, whereby it was enacted, that Samuel Wiggins, his heirs and assigns, be, and they were thereby, authorized to establish a ferry on the waters of the Mississippi, near the town of Illinois in this State, and to run the same from lands at the said place that might belong to him. Provided, he should not use any boat or water craft, except such as should be propelled or urged through the water by steam, horses, oxen, or other four footed animals. Provided, that the said Samuel Wiggins, his heirs and assigns, should have the said ferry in actual operation within eighteen months from and after the passage of that act. And by the second section of that act it was further enacted, that no person or persons, except those who had ferries then established at that place, should establish any ferry of the description aforesaid within one mile of the ferry established under that act; and if any person or persons should, contrary to the provisions of that act, run any boat or boats of the description aforesaid, he, she, or they should forfeit every such boat, with its furniture and apparel, to the said Samuel Wiggins, his heirs and

assigns, which might be attached and recovered before any court in the State having competent jurisdiction.

By the third section of said act it was enacted, that it should and might be lawful for the said Samuel Wiggins, his heirs and assigns, to demand and receive the same rates of ferriage as were then of right demandable at the ferry established nearest to the ferry authorized to be established by that act. Provided, that no more should be charged for a wagon, cart, or other carriage, if loaded, than could be charged if empty.

By the fourth and last section of said act it was enacted, that the ferry thereby established should be subject to the same taxes as were then, or thereafter might be, imposed on other ferries within this State, and under the same regulations and forfeitures; and that if the provisions of the second section of that act should be made to appear to the general assembly to be injurious to the public good, that then, and in such case, the said section might be repealed; as by a true copy of said act of the general assembly herewith exhibited, marked exhibit A, No. 1, and prayed to be taken as part of this bill, will more fully appear.

Your orators and oratrixes further represent, that at the date of the passage of said act the said Samuel Wiggins had not acquired title to any land on which to establish the ferry authorized by the said act of the general assembly, but he immediately after commenced the preparations for establishing the ferry under his contract with the State of Illinois; and accordingly, on the fourth day of March, in the year eighteen hundred and twenty, he obtained a deed from James Piggot and Zacheus Piggot, two of the heirs of James Piggot, deceased, for an undivided interest of two seventh parts of a certain tract of land, of one hundred acres, on the Mississippi, near the town of Illinois, the title to which said land was in the heirs of James Piggot, regularly deducted from the Government of the United States, in the following manner:

On the twelfth day of March, in the year one thousand eight hundred and three, William Henry Harrison, then the Governor of the Indiana territory, by virtue of the sixth section of the act of Congress, entitled "an act for granting lands to the inhabitants and settlers at Vincennes, and in the Illinois country, and for quieting them in their possessions," passed the third day of March, one thousand seven hundred and ninety-one, by a patent or grant of that date, did grant to the heirs of James Piggot, assignee of James Ware, of the Illinois country and of St. Clair county, who was enrolled in the militia of said county, on the first day of August, one thousand seven hundred and ninety, a certain tract of land, lying and being in said county of St. Clair, and bounded in manner following, to wit: beginning at a walnut on the banks of the Mississippi; thence, south five degrees west, two hundred and eighteen perches, to a cottonwood; thence, south eighty-five degrees east, seventy-three and one-half perches, to an elm; thence, north five degrees east, two hundred and eighteen perches, to a sycamore; thence, north eighty-five degrees west, seventy-three and one-half perches, to the place of beginning; which said tract of land as then surveyed, and as since sur-

veyed by the authority of the United States, is on the Mississippi river, near the town of Illinois; and these complainants herewith exhibit a copy of the said patent made by the said William Henry Harrison, Governor of Indiana, marked exhibit B, No. 2, and prayed to be taken as part of this bill.

These complainants further state, that the claim of the heirs of the said James Piggot to the land embraced in the said grant of Governor Harrison was duly exhibited to the register and receiver of the United States of the Kaskaskia land district, and was regularly confirmed by act of Congress; a copy of the proceedings of the said register and receiver on said claim is herewith exhibited, marked exhibit C, No. 3, and prayed to be taken as part of this bill. And said complainants herewith exhibit the deed of the said James Piggot and Zacheus Piggot to said Wiggins, marked exhibit D, No. 4, as part of this bill.

These complainants further state, that the said Samuel Wiggins, having so acquired an interest in the said tract of land by the deed of the said James Piggot and Zacheus Piggot, proceeded immediately to establish the ferry across the Mississippi, according to his contract with the State of Illinois, and to run his boats from the land granted and confirmed to the heirs of James Piggot as aforesaid, using in said ferry only boats propelled by the power of horses; and the said Samuel Wiggins, within less than eighteen months from the second day of March, in the year eighteen hundred and nineteen, had the said ferry in actual operation, and boats which were propelled or urged through the water by horses, and that he used at said ferry none other than boats thus propelled. And these complainants further state, that the said Samuel Wiggins entered into the possession of the land granted to the heirs of the said James Piggot as aforesaid immediately after his purchase from two of the heirs as aforesaid; and until the sale by the said Wiggins as hereinafter stated, he continued to possess the said land, and continued until said sale to maintain and keep his said ferry in full operation, increasing the means of transportation as the public wants required, and changing the boats employed, from boats propelled by horses to boats propelled by steam, so as to comply with the letter and spirit of the said act of the general assembly, and fully to discharge his duty under his contract with the State of Illinois.

These complainants further state, that the said Samuel Wiggins, on the nineteenth day of May, in the year eighteen hundred and twenty-one, by deed of that date, acquired from John McKnight and Thomas Brady, then the owners of the interests of the other heirs of the said James Piggot, deceased, in the said tract of land above described, all the right and title which was acquired by the said other heirs of said James Piggot by the said grant from Governor Harrison above mentioned, and the confirmation thereof above stated; by which said conveyance the said Samuel Wiggins united in himself the title of all the heirs of the said James Piggot, deceased, to the said tract of land, as the same had been granted and confirmed to them; a copy of which said deed, as the same has been duly recorded, is herewith exhibited, marked exhibit E, No. 5, and prayed to be taken as part of this bill.

The said complainants further state, that the said John McKnight and Thomas Brady, who by the last mentioned deed conveyed their title to the tract of land before mentioned and described, to said Samuel Wiggins, acquired the title so conveyed by them from Joseph Piggot and Hannah, his wife, Daniel Quick and Fanny, his wife, William Patterson and Asenath, his wife, and Newton Piggot, by deed duly executed and recorded, which was executed the fourth day of January, in the year one thousand eight hundred and fifteen; a copy of which is herewith filed and exhibited, marked exhibit F, No. 6, and prayed to be taken as part of this bill. And the said complainants state, that the said Joseph Piggot, Fanny Quick, Asenath Paterson, and Newton Piggot, who made the said deed to said John McKnight and Thomas Brady, and the said James Piggot and Zacheus Piggot, who made the said deed to Samuel Wiggins before exhibited, were the heirs of the said James Piggot, deceased, to whom the said tract of land before described was granted and confirmed as aforesaid.

The said complainants further state, that on the eighteenth day of January, in the year eighteen hundred and thirteen, Michael Jones then being register of the land office for the district of Kaskaskia, transmitted to the Secretary of the Treasury of the United States; a list of claims to land within said district, with a recommendation that they should be confirmed by the Government of the United States; and that the Congress of the United States, acting upon this list and recommendation, passed an act which was approved on the sixteenth day of April, eighteen hundred and fourteen, by which the claims in said list specified were confirmed, and, among the rest, the claim under Pierre Codaire, or his legal representatives, as will appear by reference to the said act of Congress, and to the certified extract from said list of claims, as reported by said Michael Jones, with portions of his letter accompanying the same; which extract was made by the said Jones, and by him certified, as herewith exhibited, marked exhibit G, No. 7, and prayed to be taken as part of this bill. These complainants also state, that before the said confirmation the said Pierre Codaire had died, leaving as his only heir his son, Joseph Codaire, who by his deed, dated the seventeenth day of April, in the year eighteen hundred and nine, conveyed to Nicholas Jarrot all his right to the tract of land which has been claimed, cultivated, and improved by his father, the said Pierre Codaire; a copy of which deed, duly certified, is herewith exhibited, marked exhibit H, No. 8, and prayed to be taken as part of this bill; which said tract of land contains the quantity of four hundred acres, and lies on the Mississippi river, opposite to the town of St. Louis, and near to the town of Illinois, and has been regularly surveyed under the authority of the United States, and the title thereto was by the confirmation by the said act of Congress, and by the deed of the said Joseph Codaire, regularly vested in the said Nicholas Jarrot in fee simple.

These complainants further state, that the commissioners in the Kaskaskia district, acting under the authority of the act of Congress of the

26 March, 1804, entitled an act making provision for the disposal of the public lands in the Indiana territory, and for other purposes, made a report of their decisions to the Secretary of the Treasury, which is dated the 31st day of December 1809, and in said report they embraced a claim to one hundred acres of land, claimed by Nicholas Jarrot under Jean Dumochell, which they reported as affirmed by them, the same being entered by them in their report of claims within the district of Kaskaskia, founded on the act of Congress granting a donation of one hundred acres of land to each militia man enrolled and doing duty in the Illinois, on the first day of August, in the year seventeen hundred and ninety; and in their said report the said commissioners described the said tract of one hundred acres of land as surveyed in virtue of an order from the Government, on the banks of the Mississippi and Cahokia creek, beginning on the river, south five degrees west, 160 poles; south eighty-five degrees east, 130 poles, to Cahokia creek; north thirty degrees east, 173 poles; north eighty-five degrees west, 70 poles, to the beginning; all which will appear by reference to the second volume of the American State Papers, selected and edited under the authority of the Senate of the United States by Walter Lowrie, Secretary of the Senate, containing documents, legislative and executive, of the Congress of the United States, in relation to the public lands; which said decision of the said commissioners was duly confirmed by the Congress of the United States by the act of the first day of May, 1810, whereby the title to the said one hundred acres of land was vested in the said Nicholas Jarrot. These complainants further state, that the said claim of the said Jarrot, so confirmed as aforesaid, was so surveyed as to be included within the survey of the said tract of four hundred acres, confirmed under the said Codaire as before described; as will appear by the official survey from the office of the surveyor general, herewith filed, and marked exhibit Z, No. 26, and prayed to be taken as part of this bill; and which said tract of one hundred acres joins the tract of land held by the said Wiggins, under the heirs of the said James Piggot as before mentioned, and is near to the town of Illinois.

These complainants further state, that about the month of *the* December, in the year eighteen hundred and twenty, the said Nicholas Jarrot departed this life, having previously made and published his last will and testament in due form of law, which has been regularly admitted to probate in said county of St Clair, and by said will duly empowered his widow and executrix, Julia Jarrot, to sell and dispose of such parts of his real estate as she might think proper, in order that she might live in the most easy and independent manner, and devised all of his real estate to her for life; which power and contemplated provision for his widow was over and above and independent of her right to her own portion of the estate, under the community established by the marriage contract between him, the said Nicholas Jarrot, and his said wife; a certified copy of which said will is herewith exhibited, marked exhibit I, No. 9, and prayed to be taken as part of this bill.

And the said complainants further state, that the said Julia Jarrot

afterwards, on the thirteenth day of July, in the year eighteen hundred and twenty-two, by her deed of that date, conveyed to the said Samuel Wiggins, in fee simple, the said tract of land of four hundred acres, so confirmed under the claim of said Pierre Codaire as aforesaid, the title to which was in the said Nicholas Jarrot at the time of his death, as before shown; and also all the right and title which the said Nicholas Jarrot might have had, at the time of his death, to any piece or parcel of land lying and being on the said tract of four hundred acres, which deed was duly acknowledged and recorded; a copy whereof, duly certified, is herewith exhibited, marked exhibit K, No. 10, and prayed to be taken as part of this bill.

These complainants further state, that the said Samuel Wiggins, from the time of the conveyance made to him by the said Julia Jarrot as before mentioned, until the time of the sale and conveyance as herein after stated, continued in possession of the said tract of land so acquired by him, and held under the said Codaire and the said Jarrot, embracing the said tract of one hundred acres, confirmed to said Jarrot under said Jean Dumochell.

These complainants state, that the bank of the Mississippi river, opposite the town of St. Louis, is an alluvial formation, which is continually falling into the river, as the action of the water wears away the sand; and there is also, from the character of the stream and of the shores of the river, a very frequent shifting of the current, sometimes forming bars where but a short time before there was deep water, and again sweeping away the sand bars, and in their place establishing for a short time the main current of the river. From this liability to frequent changes in the current of the stream and in its banks, it was necessary for the said Wiggins, in order to fulfil his contract with the State of Illinois, to acquire the title to a large space of land on the bank of the river, in order that he might change the place of landing as the changes of the river and its banks might require. This necessity was enhanced by the fact, that there existed an island in the river, opposite the upper end of the town of St. Louis, which was regularly increasing and extending down the stream, so as to interfere with the direct crossing of the river.

These complainants claim, that the said Samuel Wiggins, his heirs and assigns, were entitled, under the act of the general assembly of the State of Illinois before mentioned, approved the second day of March, eighteen hundred and nineteen, to the perpetual franchise of maintaining a ferry across the Mississippi river, from any point near the town of Illinois, from any land that might at any time belong to him or them, so that the conditions of the law were complied with; yet the said Samuel Wiggins, in order to avoid any difficulties or questions that might arise, applied to the general assembly of the State of Illinois, and on the sixth day of February, in the year eighteen hundred and twenty-one, an act was passed by the general assembly, by which, after reciting that the said Samuel Wiggins, his heirs and assigns, were authorized to establish a ferry on the waters of the Mississippi river, near the town of Illinois, in the State of Illinois, and that a sand bar had been formed

since that time opposite said ferry, therefore it was enacted, that the said Samuel Wiggins was thereby authorized to remove said ferry on any land that might belong to him on the Mississippi river; and that his heirs or assigns were thereby authorized to remove said ferry to any land that might belong to them, on the said Mississippi river, under the same privileges as were presented by the act, entitled an act to authorize Samuel Wiggins to establish a ferry upon the waters of the Mississippi, approved March 2d, 1819; and the said complainants herewith exhibit a copy of the act, entitled an act to authorize Samuel Wiggins to make a turnpike road, and for other purposes, marked exhibit L, No. 11, and prayed to be taken as part of this bill.

These complainants state, that the said lands so acquired by the said Samuel Wiggins from the said Julia Jarrot, widow, devise, and executrix of said Nicholas Jarrot, was necessary to the said Samuel Wiggins, and to his heirs and assigns, as owners of the ferry franchise granted by the State of Illinois as aforesaid, in order to the secure and convenient conduct of the ferry, as the changes of the river might require changes in the places of landing.

These complainants further state, that the said Samuel Wiggins, by his deed dated the first day of August, in the year eighteen hundred and thirty-one, conveyed all the lands before mentioned and described as having been acquired under the heirs of James Piggot, deceased, and under the said Codaire and said Jarrot, to John O'Fallon, Adam L. Mills, Bernard Pratte, now deceased, William C. Wiggins, Samuel C. Christy, now deceased, and Charles Mullikin, together with the ferry franchise, as granted to him by the legislature of the State of Illinois, as appears by the deed of said Wiggins, duly acknowledged and recorded; a copy of which is herewith filed, marked exhibit M, No. 12, and prayed to be taken as part of this bill.

These complainants further state, that the said John O'Fallon, afterwards, by his deed dated the first day of February, eighteen hundred and thirty-eight, conveyed one half of the interest acquired by him, the said John O'Fallon, under deed from the said Samuel Wiggins, to John H. Gay, in fee simple, as appears by the deed from said O'Fallon and his wife to said John H. Gay, which was duly acknowledged and recorded; which deed is herewith exhibited, marked exhibit N, No. 13, and prayed to be taken as part of this bill.

And the said complainants further state, that the said John O'Fallon, by his deed dated the sixteenth day of December, in the year eighteen hundred and forty-three, conveyed to the said complainant, Andrew Christy, all his remaining interest in said premises, as acquired from said Samuel Wiggins, as will more fully appear by the deed of said O'Fallon, herewith exhibited, marked exhibit O, No. 14, and prayed to be taken as part of this bill.

And your complainants further state, that the said Adam L. Mills, one of the complainants, by his deed dated the thirteenth day of October, in the year eighteen hundred and forty, conveyed to Andrew Christy, another of the said complainants, in fee simple, one half of the

interest, right, and title acquired by him, said Mills, by the said deed from said Wiggins, in the said lands and said ferry franchise; which deed from said Mills to said Christy is herewith exhibited, marked exhibit P, No. 15, and prayed to be taken as part of this bill.

These complainants further state, that the said John O'Fallon, on the twelfty day of January, in the year eighteen hundred and thirty-two, became the purchaser of the tract of land above described as claim ninety-nine, survey number five hundred and seventy-nine, under and by virtue of the laws of the State of Illinois, for the taxes for the year eighteen hundred and thirty-one, with the interest and costs chargeable on said tract of land; and the same was, in pursuance of the laws of Illinois, duly conveyed to said O'Fallon, by the auditor of public accounts of the State of Illinois, by deed dated the 10th day of February, in the year eighteen hundred and thirty-five; which said purchase from the State of Illinois, by said O'Fallon, was made by him in his own name, for the use and benefit of all the owners of said land and ferry franchise, and their assigns and representatives; and the said deed was so held by him in trust for the use and benefit aforesaid, until the same was conveyed by the said O'Fallon to the complainants as herein stated; which deed is herewith exhibited, marked exhibit Q, No. 16, and prayed to be taken as part of this bill.

These complainants further state, that the said John O'Fallon afterwards, on the eighteenth day of March, in the year eighteen hundred and forty-four, by his deed of that date, conveyed, among other things, all the right, title, and interest, acquired by him in the said tract of land under his said purchase for taxes as above stated, to these complainants; as will more fully appear by the said deed herewith exhibited, marked exhibit R, No. 17, and prayed to be taken as part of this bill.

These complainants also state, that after the purchase from said Samuel Wiggins, by the said John O'Fallon, Adam L. Mills, William C. Wiggins, Charles Mullikin, Bernard Pratte, and Samuel C. Christy, the said Bernard Pratte and Samuel C. Christy departed this life; the said Bernard Pratte leaving the complainant, Emily Pratte, his widow, and the complainant Emily Crooks, Bernard Pratte, Therese Penguit, Celeste Niedlet, Pelagie Bogy and Diane Blane, his children and only heirs; and the said Samuel C. Christy leaving, at his death, the complainant, Melanie Christy, his widow, and Joseph A. Christy, Elizabeth Christy, and Mary C. Christy, his children and only heirs; which Joseph A. Christy, since the death of said Samuel C. Christy, has departed this life an infant, and without issue. By means of which said several conveyances and descents, the said complainants in this bill named have acquired all the right, title, and interest, which the said Samuel Wiggins had in and to the land before described, and the ferry franchise granted to him by the State of Illinois as aforesaid.

The complainants state, that the said Samuel Wiggins, previous to the sale and conveyance so made by him as aforesaid, had, and those claiming under his said conveyance, (including these complainants,) have always, since said conveyance, kept and fulfilled all the duties and

amount of damages which, in the opinion of said jury, these complainants would sustain by virtue of the location of said road, only after excluding therefrom the injury to these complainants by impairing their ferry franchise, and depriving them of the best part of their ferry landing.

And these complainants further state, that the said three hundred feet include a wider space, and more land, than is necessary or convenient for a road, and but a small portion of it has been used and appropriated by the said county of St. Clair to that purpose, leaving a strip on either side to be used by the said county of St. Clair and its lessees, for private property, for building lots, and other private purposes; and that that portion of the said three hundred feet which is not included in said road, and which is now used for private purposes, or is left to be thus used, will yield an annual ground rent larger than the whole amount of the damages assessed as aforesaid for the whole of said three hundred feet.

And these complainants further state, that the said county of St. Clair has, through its agents, entered upon and taken possession of the whole of said three hundred feet of land, and has leased the same, together with the said road and ferry-landing; and the ferry, established under the said last mentioned act of the general assembly of Illinois, to James Harrison, for the term of five years; a copy of which lease is herewith exhibited, marked exhibit S, No. 18, and prayed to be taken as part of this bill; and said Harrison, as such lessee, has entered upon said three hundred feet of ground, and is using the same as his private property, and is actually engaged in running a ferry therefrom, across the Mississippi river, to the city of St. Louis; and has thus not only established a ferry, rivalling and injuring the ferry of these complainants, but is using to their injury what they consider to be a part of their ferry landing, and has deprived them of the use and occupancy of that very portion of their said tract of land which is necessary to the full enjoyment of their ferry franchise, and the full performance of their contract with the State of Illinois.

And these complainants further state, that the said three hundred feet of ground, (upon which said road and ferry landing have been located by the said county of St. Clair,) is part and parcel of the tract of land purchased by the said Samuel Wiggins, and appropriated by him to the purposes of a ferry landing as aforesaid, in pursuance of the said two acts of the Illinois legislature, approved March 2d, 1819, and February 26th, 1821, and now owned by the complainants, as the assigns of the said Samuel Wiggins, and as heirs, assigns, and representatives of certain of his assigns. And these complainants claim that, by virtue of these two acts of the legislature of Illinois, and of the purchase of the said tracts of land by the said Samuel Wiggins, and the application of the same to the purposes of a ferry landing, in accordance with those acts, the whole of said tract of land became the ferry landing of these complainants, appropriated to them by the legislature of Illinois for that purpose.

And these complainants further state, that in consequence of a sand

bar (or island) having formed opposite their said ferry landing, and having enlarged and varied by the floods in the river, and of the obstructions on the Illinois shore, occasioned by the action of the water and the formation of sand bars, they were compelled to remove their said ferry landing, from time to time, and from place to place, on said tract, and were at times in the habit of landing their ferry boats above, below, and in the immediate vicinity of the said three hundred feet of ground now used by the said lessee of St. Clair county as a road and ferry landing; and that at different seasons of the year, and at various stages of the water in the river, these complainants, on account of the causes and obstructions aforesaid, are compelled to land their ferry boats at different places on their said tract of land, and to change the same, as the water in the river may rise and fall; for instance, in high water they are required to land at one place, in low water at another, and in a medium stage of water at another; and so varying their points of landing, as the water in the river may destroy it at one point, and afford a safe and convenient landing at another, nearly from one end of said tract of land to the other.

And these complainants further state, that during the recent floods, the action of the water has produced such farther changes in the banks, sand bars, and channels of said river, as to render the said three hundred feet of ground, now used by the said lessee of St. Clair county as aforesaid, not only the most convenient point for a ferry landing, but the only point on said tract of land at which boats can be safely landed, where a road approaches the river, or the travel can conveniently reach it, without running up the river at great trouble and expense, from the lower point of the island, below which they cross, a distance about six hundred yards, making the trip about twelve hundred yards more than they would be required to run if they were allowed to use the said three hundred feet of ground, which belongs to them, as a ferry landing.

And these complainants further state, that during the winter season, while the floating ice is running in the river, their steam ferry boats, which they have purchased at a great expenditure of money, and are now using for the transportation of passengers and property at their said ferry, cannot run up stream against the rapid current and floating ice; and hence they may be compelled to stop their ferry, violate their contract with the State of Illinois, and forfeit their ferry franchise, unless they are permitted to use the said three hundred feet of their own land, of which the said lessee of the county of St. Clair has deprived them of the possession and use as aforesaid.

These complainants invoke the Constitution of the United States, and particularly the said first clause of the tenth section of the first article thereof, as their protection against the unjust legislation which has been adopted by the general assembly of the State of Illinois, whereby the solemn contract of the State, contained in the grant to Samuel Wiggins, his heirs and assigns, as expressed in the act of assembly of the second of March, eighteen hundred and nineteen, and the act of the sixth day of February, eighteen hundred and twenty-one, before mentioned, has

been most materially impaired, and against the proceedings of the commissioners appointed to lay out said road, and of the county commissioners' court of St. Clair county, in pretending to carry into effect the unconstitutional legislation, by taking a part of the very landing or terminus of the ferry of these complainants, to establish thereon another ferry. And these complainants invoke the constitution of Illinois, as their protection against the legislation of the State, and the proceedings under color thereof, by which the property of these complainants has been attempted to be taken for a private, and not a public use, and for the very use for which these complainants were applying it, and by which no compensation is provided for these complainants for the damage done them by the use to which said property is to be applied.

These complainants herewith exhibit a plat of a survey, which survey was made by the surveyor of the city of St. Louis, with a view to the improvement of the harbor of St. Louis, and which exhibits the shore of the river Mississippi as it existed when the public surveys were made of the lands claimed by these complainants under Jarrot, and under the heirs of Piggot, above mentioned; whereby it will appear to the court, that of survey No. 624, which is the survey of the tract under the heirs of Piggot, more than a-half, and nearly two thirds, of the whole tract had been carried off by the river, when this survey by the surveyor of the city was made, the quantity carried off being greatly increased by the fresh of this present year; and it will further appear, that of survey No. 579, which is the survey under Dumochell, about one-third of the tract has been carried off by the river. And the said plat will further shew to the court, that the line which represented the Illinois shore of the river, at the period of those surveys, is now in some places near the western shore of that channel of the river which is on the east of Bloody Island. The size and position of Bloody Island, as it existed at the time of the original surveys in the year eighteen hundred and eighteen, is represented on the said plat by the red lines drawn on the figure of said island on said plat; and that island, as it now exists, with the increase which it has gained at its lower extremity, is also shown on said plat, whereby it will appear to the court that the said island has nearly doubled its length since it was originally surveyed. The said plat also shews on the Illinois shore the points on which the road has at different periods reached the river, and where at different periods, the landing of the ferry of the said Wiggins, and of these complainants, have been. Although the points of said landings have long since been far in the river, the roads leading to them shew their relative positions and the distance from each other. The said plat will shew to the court the changes in the landings of the ferry of these complainants, which have become necessary by the changes in the channel of the river, and by the increase of Bloody Island; and it will appear thereby to the court, that it has already been necessary to remove the place of landing about a half a mile down the river from the point at which the ferry was formerly established. The said plat will further shew to the court the course which the boats of these complainants are

now compelled to take, to cross the river, in order to pass around the lower point on the sand bar, which continues to increase at the lower point of the island.

The said plat also correctly represents the relative position of the landing now used by these complainants, and that used by the said James Harrison for the ferry which he is now conducting; and it will appear to the court, that the very point which he now occupies, for the landing of his boats, may at any time become absolutely necessary to these complainants for the proper management of their ferry; the said plat will also shew to the court, on the western shore of the river, the point on which the landing of the ferry under the said Wiggins was formerly established, being at Oak street, now Morgan street, in the city of St. Louis, which is directly opposite to the highest landing on the Illinois shore; and the said plat will shew to the court how the increase of the length of the island has compelled a change in the ferry landing on the Missouri shore; which said plat has been made from actual and accurate surveys, and is herewith exhibited, marked exhibit T, No. 25.

And so the said complainants say, that the said James Harrison now occupies and uses property of these complainants, which has been attempted to be taken from these complainants by unconstitutional legislation, and is employing it to injure and further to oppress these complainants; and that he is so employing the said property under the county of St. Clair.

All which actings and doings are contrary to equity and good conscience, and tend to the manifest injury of these complainants; wherefore these complainants pray, that the county of St. Clair and the said James Harrison be made defendants to this bill, and be compelled to answer all and singular the matters and things herein contained and set forth, as fully and particularly as if the same were herein again repeated, and they specially interrogated thereto; and that the said county of St. Clair and the said James Harrison, and each of them, and all their confederates and servants, be enjoined from further maintaining and carrying on their said ferry, or any ferry from any land embraced in the survey of the claim of the heirs of Pierre Codaire, or of the claim of Nicholas Jarrot, under Jean Dumochelle; and that the said complainants have such other and further relief as their case may require, and to the court may seem meet.

GAMBLE & BATES,
Solicitors for compt's.

STATE OF ILLINOIS, *St. Clair county, ss:*

Before me, Vital Jarrot, an acting justice of the peace in and for the county of St. Clair, State of Illinois, came Adam L. Mills, one of the complainants in the foregoing bill, and made oath, that the allegations thereof, so far as they are made from the knowledge of complainants, are true, and so far as they are made from information derived from others, he believes them to be true.

ADAM L. MILLS.

Sworn to and subscribed before me, this 29th day of October, 1844.
VITAL JARROT, [SEAL.]
Justice of the Peace.

Exhibit A, No. 1, *page* 104, *in acts of* 119.

An act to authorize Samuel Wiggins to establish a ferry upon the waters of the Mississippi. Approved March 2nd, 1819.

Sec. 1. Be it enacted by the people of the State of Illinois, represented in the general assembly, that Samuel Wiggins, his heirs and assigns, be, and they are hereby, authorized to establish a ferry on the waters of the Mississippi, near the town of Illinois in this State, and to run the same from lands at the said place that may belong to him. Provided, that he shall not use any boat or water-craft, except such as shall be propelled or urged to the water by steam, horses, oxen, or other four-footed animals. Provided, that the said Samuel Wiggins, his heirs and assigns, shall have the said ferry in actual operation within eighteen months from and after the passage of this act.

Sec. 2. And be it further enacted, that no person or persons, except those who have ferries now established at this place, shall establish any ferry of the description aforesaid within one mile of the ferry established under this act. And if any person or persons shall, contrary to the provisions of this act, run any boat or boats of the description aforesaid, he, she, or they, shall forfeit every such boat, with its furniture and apparel, to the said Samuel Wiggins, his heirs and assigns, which may be attached and recovered before any court in this State having competent jurisdiction.

Sec. 3. And be it further enacted, that it shall and may be lawful for the said Samuel Wiggins, his heirs or assigns, to demand and receive the same rates of ferriage as are now of right demandable at the ferry established nearest to the ferry authorized to be established by this act. Provided, that no more shall be charged for a wagon, cart, or other carriage, if loaded, than could be charged if empty.

Sec. 4. And be it further enacted, that the ferry hereby established shall be subject to the same taxes as are now, or hereafter may be, imposed on other ferries within this State, and under the same regulations and forfeitures. And that if the provisions of the second section of this act shall be made to appear to the general assembly to be injurious to the public good, that then, and in such case, the said second section may be repealed.

Exhibit B, No. 2.

William Henry Harrison, Governor of the Indiana Territory, to all to whom these presents shall come, greeting:

Know ye, that by virtue of an act of Congress, entitled an act for granting lands to the inhabitants and settlers at Vincennes and Illinois country, and for quieting them in their possessions, passed the third day of March, one thousand seven hundred and ninety-one, I have granted,

and by these presents do grant, unto the heirs of James Piggot, assignee of James Ware, of the Illinois country, and of St. Clair county, who was enrolled in the militia of said county on the first day of August, one thousand seven hundred and ninety, as by reference to the rolls does fully appear, and had done militia duty therein, a certain tract or parcel of land, lying and being in the said county of St. Clair, and bounded in manner following, to wit: beginning at a walnut on the bank of the Mississippi; thence, south five degrees west, two hundred and eighteen perches, to a cottonwood; thence, south eighty-five degrees east, seventy-three and one-half perches, to an elm; thence, north five degrees east, two hundred and eighteen perches, to a sycamore; thence, north eighty-five degrees west, seventy-three and one-half perches, to the place of beginning; joining the Mississippi on the south, vacant lands on the south-east, Cahokia fields on the north-east, and vacant lands on the north-west, containing one hundred acres and twenty-three perches. The said described tract or parcel of land to have and to hold to the said heirs of the said James Piggot, their heirs and assigns, to the only proper use of the said heirs of the said James Piggot, and to their heirs and assigns forever. In testimony whereof, I have hereunto set my hand, and caused the seal of the territory to be affixed at Vincennes, the twelfth day of March, in the year of our Lord one thousand eight hundred and three, and of the independence of the United States the twenty-seventh.

WILLIAM HENRY HARRISON.

By the Governor's command,

JNO. GIBSON, *Secretary*.

Recorded 6th December, 1804.

I, Miles Hotchkiss, register of the land office at Kaskaskia, do hereby certify the foregoing is a true and correct copy of the record now in my office, and that the same has been carefully examined and compared with said record, and found to be correct.

Register's office at Kaskaskia, June 23d, 1843.

M. HOTCHKISS, *Register*.

Exhibit C, No. 3.

COMMISSIONERS' OFFICE,

Kaskaskia, January 4th, 1813.

SIR: The commissioners, appointed in pursuance of the act of the 20th February, 1812, for the purpose of enquiring into the validity of claims, which were derived from confirmations made or pretended to be made by the Governors of the Northwest and Indiana Territory respectively, with much trouble and difficulty, have performed that arduous duty. But before we enter into a detail of the accompanying documents, beg leave to observe, that on the 13th of July last, we met at our office in the town of Kaskaskia, and consulted the law under which we have the honor to act; from a view of which it was perceived, that the office of agent to the board was created, who not appearing, our progress was for some time impeded; and anxiously waiting his arrival, but be-

lieving this officer had not been appointed, we determined to proceed to the proposed investigation without his aid or assistance. Whereupon we came to the resolution to summon a number of the most ancient and respectable inhabitants of the several villages and settlements, and examine them touching the validity of the claims before us. From such a course it was perceived the board would be enabled to approve the claims which would be supported by that respectable testimony, and such claims as were not thus supported should be considered as impeached. But in order that the claimants might have an opportunity to adduce further evidence in support of such impeached claims, we directed list of such impeached claims to be made out, apprising the claimants that the board would receive any testimony that might be offered, until the 25th of November last, and this time was afterwards prolonged; and, indeed, no testimony that was offered previous to the completion of our reports has been rejected.

Having premised thus far, the commissioners beg leave to report:

Here follows reports from number one to number twelve inclusive, which are a list of claims founded on ancient French grants, claims by improvement and cultivation, donations to heads of families, &c.

Report No. 13 contains a list of grants made to those who did militia duty in the Illinois country on the first of August, 1790; and which, in the opinion of a majority of the board, (for reasons therein assigned,) ought to be confirmed; of which claim No. 489, is one of the claims embraced in said report, to wit: 100 acres of land claimed by James Piggot, as assignee of James Ware, a militia man, in the Illinois. Patented by Governor Harrison to the heirs of the said James Piggot, and thus described, to wit, lying and being in the county of St. Clair, and bounded in manner following, to wit: beginning at a walnut on the bank of the Mississippi; thence, S. 5° W. 218 perches, to a cottonwood; thence, S. 85° E. 73½ perches, to an elm; thence, N. 5° E. 218 perches, to a sycamore; and thence, N. 85° W. 73½ perches, to the place of beginning; joining the Mississippi on the south and the Cahokia common on the east.

With respect to the foregoing statement of claims, the commissioners (Caldwell and Sloo) beg leave to observe, that they have not entered into an investigation of their several merits by the examination of witnesses, because it is deemed that such a course would have been productive of much trouble and inconvenience, without being able to detect imposition with certainty, if any has been practised on the Governors in allowing those grants, for there is not a muster-roll of the militia who did militia duty on the first of August, 1790, to be found, and but very few of the officers who commanded at that time are now living; therefore, very few claimants could claim their service and enrolment as the law requires, while others would be left in doubt and uncertainty, as the testimony that would now be given could go no farther than to say, such and such claimants were or were not, to the knowledge of the deponents, in the Illinois country in the year 1790, and perhaps did militia duty within that year.

Therefore, from these considerations the said commissioners are of opinion, that the certified list of militia men taken by Governor St. Clair, on account of its antiquity, is the best evidence that this species of claims is susceptible of; which list, from information, was made out by several of the most respectable persons in the different villages of the Illinois, appointed by the Governor for that purpose, who on oath certified to him, that the persons whose names were entered on the said list were to their belief entitled to militia donations, which from a certified copy transmitted to the late board of commissioners appears to have been approved of by him, and from this list the late board of commissioners affirmed a considerable number of claims without further proof; nor does it appear that the committee who reported the law under which we have the honor to act, contemplated an enquiry into the validity of this species of claims by the examination of witnesses. The aforesaid commissioners beg leave further to observe, that in every instance when persons of the same name were found entered on the list of donations to the heads of families, and on that of militia donations, enquiry has been made by witnesses, whether there were two persons of such name, the one entitled as the head of a family, and the other as a militia man, in order as far as possible to detect improper grants from documents before us.

Commissioners' office, Kaskaskia, 4th January, 1813.

JNO. CALDWELL, } *Commissioners.*
THOS. SLOO. }

In relation to the preceding militia donations, confirmed by the Governors of the Northwest and Indiana Territories, I can only observe, that as I am impressed with the belief that some improper confirmations have been made to individuals of this description of claims, I cannot, consistent with my duty, report these confirmations as approved of by me. There having been no testimony examined touching their validity, yet as a majority of the board have come to a resolution to do so, as the former board have in their decision of cases not specially confirmed by the Governors, predicated in some instances their affirmations of militia donations on the evidence of the approved list above mentioned, which afforded us better evidence than that which the majority of the present board have acted on, as in this class of claims the inducement to obtain surreptitious confirmations being comparatively less, and as most of these donations have passed out of the hands of the original donees, and have been patented or located under the direction of the Governors, and the lands thus acquired by many of the most worthy of the yeomanry of the country have been rendered valuable by being extensively improved by the present claimants, who in the event of a rejection of their rights would be left without the means of remuneration, I feel myself therefore justified, under all the circumstances, in advising their confirmation by the Government.

(Signed,) MICH'L JONES, *Comm'r.*

I, Jacob Feaman, register of the land office at Kaskaskia, do hereby certify, that the foregoing report is a true copy of the proceedings and

decisions of the commissioners appointed under the act of Congress of the 20th day of February, 1812, upon claim No. 489, as appears of record in my office, in favor of James Piggot, assignee of James Ware, and confirmed by said board of commissioners to the heirs of the said James Piggot, as reported to the Secretary of the Treasury, 4th day of January, 1813, and confirmed by act of Congress, the 16th of April, 1814.

JACOB FEAMAN, *Register.*

Exhibit D, No. 4.

This indenture, made this twenty-fourth day of March, in the year of our Lord one thousand eight hundred and twenty, between James Piggot, of the county of St. Louis, and the Territory of Missouri, and Jane Piggot his wife; and Zacheus Piggot, of the county of St. Louis, and Territory of Missouri, and Elizabeth Piggot his wife, of the first part, and Samuel Wiggins, of the county of St. Louis, and Territory of Missouri aforesaid, of the second part, witnesseth: that the said parties of the first part, for and in consideration of the sum of three thousand dollars, lawful money of the United States, to them in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold, remised, released, aliened, and confirmed, and by these presents do grant, bargain, sell, remise, release, alien, and confirm, unto the said Samuel Wiggins, and to his heirs and assigns forever, the two equal undivided seventh parts of all that certain tract or parcel of land, situate, lying, and being in the county of St. Clair, and the State of Illinois, being the grant of a militia right, made by William Henry Harrison, Governor of the Territory of Indiana, to James Piggot, deceased, (father of the said James Piggot and Zacheus Piggot, two of the parties of the first part,) as assignee of one James Ware, by patent bearing date at Vincennes, on the twelfth day of March, one thousand eight hundred and three, and recorded in the United States land office, for the district of Kaskaskia, in book A, page 74 and 75, the sixth of December, one thousand eight hundred and four, bounded as follows: beginning at a walnut on the bank of the Mississippi river; thence, south five degrees west, two hundred and eighteen perches, to a cottonwood; thence, south eighty-five degrees east, seventy-three and one-half perches, to an elm; thence, north five degrees east, two hundred and eighteen perches, to a sycamore; thence, north eighty-five degrees west, seventy-three and one-half perches, to the place of beginning; joining the Mississippi on the south, vacant land on the southeast, Cahokia fields on the northeast, and vacant lands on the northwest, containing one hundred acres and twenty-three perches, as in that patent described. To have and to hold the said two equal undivided seventh parts of the said tract of land above described, together with all and singular the rights, privileges, and appurtenances whatsoever thereunto belonging or in any wise appertaining, to the only proper use, benefit, and behoof of him the said party of the second part, his heirs and assigns, forever. And the said parties of the first part, for themselves, their heirs, executors and administrators, covenant, grant,

promise and agree, to and with the said party of the second part, his heirs and assigns, that they, the said parties of the first part, their heirs, executors and administrators, shall and will, at all times hereafter, upon the reasonable request of the said party of the second part, his heirs and assigns, and at the proper costs and charges in the law of the said party of the second part, make, do, seal, and execute, or cause or procure to be made, done, sealed, and executed, such other and further reasonable conveyances, for the further and better confirming the said two equal undivided seventh parts of the said premises above described, to the said party of the second part, his heirs and assigns, with the appurtenances, and every part and parcel thereof, as by the said party of the second part, his heirs and assigns, or his or their counsel, shall be reasonably advised, devised, or required. And that they will warrant and forever defend, to the said parties of the second part, his heirs and assigns forever, the said two equal undivided seventh parts of the premises above described. And the said parties of the first part, for themselves, their heirs, executors and administrators, do assign, transfer, set over, convey, grant, bargain and sell, to the said party of the second part, his heirs and assigns, all their right, title, interest, claim, or demand, in, to, or out of two equal undivided seventh parts of the right of ferrying over the Mississippi river, from the town of Illinois, in the county of St. Clair, and State of Illinois aforesaid, to the town of St. Louis, in the Territory of Missouri, which has been confirmed to the heirs of the said James Piggot, deceased, with all the rights, privileges, and hereditaments thereunto belonging and appertaining. To have and to hold the said two undivided seventh parts of the said right of ferriage, with its hereditaments and appurtenances, to the said party of the second part, his heirs and assigns, forever.

In testimony whereof, the said parties of the first part have hereunto interchangeably set their hands and affixed their seals, the day and year first above written.

JAMES PIGGOT, [SEAL.]

his
ZACCHEUS ⋈ PIGGOT, [SEAL.]
mark

her
ELIZABETH ⋈ PIGGOT. [SEAL.]
mark

Signed, sealed, and delivered, in presence of—

1st p. 6th l. "three" written on an erasure, before signature.

ABM. BECK.

TERRITORY OF MISSOURI,

County of St. Louis, ss:

This day personally appeared before me, the clerk of the circuit court for the county of St. Louis, the within named James Piggot, Zaccheus Piggot, and Elizabeth Piggot, wife of said Zaccheus, and all

and each acknowledged the within deed from them to Samuel Wiggins to be their acts and deeds, hands and seals, for the purpose therein mentioned. And the said Elizabeth, wife of the said Zaccheus, being by me made acquainted with the contents of said deed, and by me examined separately and apart from her said husband, acknowledged that she executed the same freely and voluntarily, and without the compulsion or undue influence of her said husband.

I do therefore allow the same to be recorded—

Given under my hand and seal of office at St. Louis, this 24th day of March, 1820.

[SEAL.] ARCHIBALD GAMBLE, *Clerk.*

STATE OF ILLINOIS, *St. Clair county, ss:*

I, John Hay, recorder of the said county of St. Clair, do hereby certify to have recorded the foregoing, and its acknowledgment, this seventeenth day of May, in the year of our Lord eighteen hundred and twenty, in book D, pages 70, 71 and 72.

Given under my hand at Belleville, the day and year aforesaid.

JOHN HAY.

Exhibit E, No. 5.

This indenture, made this nineteenth day of May, in the year of our Lord one thousand eight hundred and twenty-one, between John McKnight and Thomas Brady and Harriet Brady, his wife, all of the town of St. Louis, of the first part, and Samuel Wiggins, of the same place, of the second part, witnesseth: that the said parties of the first part, for and in consideration of the sum of seven thousand dollars, lawful money of the United States, to them in hand paid by the said party of the second part, his receipt whereof is hereby confessed and acknowledged, do grant, bargain, sell, remise, release, alien, and confirm unto the said party of the second part, and to his heirs and assigns, forever, all that certain piece or parcel of land, situate in the county of St. Clair, and State of Illinois, containing sixty-eight acres and one hundred and twenty-five thousandths of an acre, being the southern part of a certain tract, being the grant of a militia right made by William Henry Harrison, Governor of the Indiana Territory, to James Piggot, deceased, as assignee of one James Ware, by patent bearing date at Vincennes, on the twelfth day of March, one thousand eight hundred and three, and recorded in the United States land office for the district of Kaskaskia, in book A, pages 74 and 75, the sixth day of December, one thousand eight hundred and four, bounded as follows: beginning at a walnut on the bank of the Mississippi river; thence, south five degrees west, two hundred and eighteen perches, to a cottonwood; thence, south eighty-five degrees east, seventy-three and one-half perches, to an elm; thence, north five degrees east, two hundred and eighteen perches, to a sycamore; thence, north eighty-five degrees west, seventy-three and a half perches, to the place of beginning; joining the Mississippi on the south, vacant lands on the southeast, Cahokia fields on the northeast, and vacant lands on the

northwest; containing one hundred acres and twenty-three perches, as in the said patent described, as will appear by the conveyance of the whole of said land from Joseph Piggot and Hannah, his wife, Daniel Quick and Nancy, his wife, formerly Nancy Piggot, William Patterson and Asenath, his wife, formerly Asenath Piggot, Newton Piggot, to the said John McKnight and Thomas Brady, by deed bearing date January 4th, 1815; and by a release of dower from Frances Collard, to the said John McKnight and Thomas Brady, by deed bearing date January 16th, 1815, and which was also granted by letters patent from the United States to the said John McKnight and Thomas Brady; and which property was afterwards divided between the said Samuel Wiggins and the said John McKnight and Thomas Brady, by order of the circuit court of the county of St. Clair, in the State of Illinois; and the said sixty-eight acres and one hundred and twenty-five thousandths were allotted and set off as the part of the said John McKnight and Thomas Brady, as by the records remaining in said court will more fully and at large appear. Together with all and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the reversion or reversions, remainder and remainders, rents, issues, and profits thereof; and also, all the estate, right, title, interest, claim or demand whatsoever of them, the said parties of the first part, either in law or equity, of, in, and to the above bargained premises, and every part and parcel thereof; and the said parties of the first part, for the consideration above mentioned, do by these presents also bargain, release, and quit-claim unto the said Samuel Wiggins, and to his heirs and assigns forever, all their right, title, claim, interest, estate or demand, either at law or in equity, of, in, and to the residue of the said tract above described, exclusive of the said sixty-eight acres and one hundred and twenty-five thousandths, and also to any claim of dower, to the whole or any part of the said tract, or any right of ferriage under any existing law of the State of Illinois, or otherwise howsoever; or any other claim, right. or demand whatsoever, belonging or appertaining, or in any wise appertaining, to the said premises, or any part or parcel thereof. To have and to hold, to the said party of the second part, his heirs and assigns, to the sole and only proper use, benefit, and behoof, of the said party of the second part, his heirs and assigns forever. And the said John McKnight and Thomas Brady, and their heirs, covenant with the said Samuel Wiggins, and his heirs and assigns, the title to the said sixty-eight acres and one hundred and twenty-five thousandths, to warrant and defend, against the claims and demands of all persons whomsoever, unto the said Samuel Wiggins, his heirs and assigns, forever. Provided, however, that if at any time the title to the said sixty-eight acres and one hundred and twenty-five thousandths, shall and do fail, that then the said John McKnight and Thomas Brady shall only be answerable for the original consideration money of seven thousand dollars above mentioned, with interest from the date hereof. In witness

whereof, the said parties of the first part have hereunto set their hands and affixed their seals, the day and year first above written.

JOHN McKNIGHT, [L. S.]
THOMAS BRADY, [L. S.]
HARRIET BRADY. [L. S.]

Signed, sealed, and delivered in presence of—
EWEL BAKER.

STATE OF MISSOURI, *County of St. Louis, ss:*

This day personally appeared before me, the undersigned, deputy clerk within and for the county of St. Louis, the above named John McKnight, Thomas Brady and Harriet Brady, and severally acknowledged the foregoing deed to be their true act and deed, hand and seal, for the purposes therein contained; and the said Harriet, wife of the said Thomas, being by me separate and apart from her said husband, examined, acknowledged that she signed the same freely, voluntarily, and without fear or compulsion, restraint, constraint, or undue influence of her said husband.

[Seal of Circuit Court.] Given under my hand and seal, this nineteenth day of May, 1821.

By ARCHIBALD GAMBLE, *Clk.*
EWEL BAKER, *D. Clk.*

STATE OF ILLINOIS, *St. Clair county.*

I, John Hay, recorder of the said county of St. Clair, do hereby certify to have recorded the within instrument of writing, this thirtieth day of May, A. D. eighteen hundred and twenty-one, in book E, pages 48 and 49.

Given under my hand at Bellville, the day and year aforesaid.

JOHN HAY.

Exhibit F, No. 6.

This indenture, made this fourth day of January, in the year one thousand eight hundred and fifteen, between Joseph Piggot and Hannah, his wife, Daniel Quick and Fanny, his wife, formerly Fanny Piggot, William Patterson and Arsenath, his wife, formerly Arsenath Piggot, Newton Piggot and Zaccheus Piggot, heirs and representatives of James Piggot, deceased, formerly of St. Clair county, in the Territory of Illinois, of the one part, and John McKnight and Thomas Brady, merchants of the town of St. Louis, in the Territory of Missouri, witnesseth: that the said heirs and representatives above named, (for and in consideration of the sum of one thousand dollars to them, by said McKnight and Brady, secured to be paid within thirty days after the execution and delivery of these presents, by the said heirs and representatives, and for and in consideration of the covenants and stipulations, on the part of said McKnight and Brady hereinafter mentioned,) do by these presents grant, bargain, sell, alien, transfer, and convey unto the said McKnight and Brady, a certain tract or parcel of land, lying and being in the county of St. Clair, in the Illinois Territory, being the grant of a militia right

made by William Henry Harrison, Governor of the Indiana Territory, to said James Piggot, deceased, as assignee of one James Ware, by patent bearing date at Vincennes, on the twelfth day of March, one thousand eight hundred and three, and recorded in the United States land office for the district of Kaskaskia, in book A, pages 74 and 75, the sixth day of December, one thousand eight hundred and four, bounded as follows: beginning at a walnut on the bank of the Mississippi river; thence, south five degrees west, two hundred and eighteen perches, to a cottonwood; thence, south eighty-five degrees east, seventy-three and one-half perches, to an elm; thence, north five degrees east, two hundred and eighteen perches, to a sycamore; thence, north eighty-five degrees west, seventy-three and a half perches, to the place of beginning; joining the Mississippi on the south, vacant lands on the southeast, Cahokia fields on the northeast, and vacant lands on the northwest; containing one hundred acres and twenty-three perches, as in that patent described. To have and to hold the said tract of land, with the hereditaments, appurtenances, privileges, rights, profits, and advantages thereunto belonging, or in any wise appertaining, unto them, the said McKnight and Brady, their heirs and assigns, forever, from and against the claim and demand of the said heirs, and every person claiming or to claim, by, through, or under them, or any of them. And it is covenanted and agreed, that the remaining one thousand dollars of the consideration money is to remain in the hands of the said McKnight and Brady, on interest from the execution and delivery of this deed, until the said Zacheus Piggot shall attain the age of twenty-one years, that is, till the first day of January, one thousand eight hundred and nineteen; and then on said Zacheus confirming this deed, or transferring his right of said land to said McKnight and Brady, the sum of two hundred and seventy-one dollars, with interest, to be paid to him, and all the balance of said thousand dollars to be paid to the others of said heirs, except the other sum of two hundred and seventy-one dollars and forty-two cents, with interest thereon, which is to be reserved by McKnight and Brady, to be paid to James Piggot, one of the heirs to said land, on his transferring to them his right and title therein.

And it is further agreed, that in case the title of said heirs to said land, or any part thereof, should at any time prove defective and insufficient for said McKnight and Brady, their heirs or assigns, to hold and enjoy the same, then the money which shall be actually paid therefor, by said McKnight and Brady, shall be refunded by said heirs, or their heirs, executors or administrators, without any interest or costs on the money so to be paid. In testimony whereof, we have hereunto set our hands and affixed our seals, the day and year first above written.

JOSEPH PIGGOT, [SEAL.]
DANIEL QUICK, [SEAL.]
WILLIAM PATTERSON, [SEAL.]
NEWTON PIGGOT, [SEAL.]
HANNAH PIGGOT, [SEAL.]
FANNY QUICK, [SEAL.]
ASENATH PATTERSON. [SEAL.]

Signed, sealed, and delivered, in presence of—

D. BARTON,
G. T. MCKNIGHT,
ROBT. PATTON,
M. P. LEDUC.

MISSOURI TERRITORY,

County of St. Louis, St. Louis township, sct:

Before us, the undersigned two justices, assigned to keep the peace within and for the township aforesaid, personally came and appeared the within named Joseph Piggot and Hannah, his wife, Daniel Quick and Fanny, his wife, William Patterson and Arsenath, his wife, and Newton Piggot, and acknowledged the within instrument of writing to be their and each of their act and deed, hands and seals, for the purposes therein contained. Having first separately and apart examined the said Hannah, wife of the said Joseph, Fanny, wife of said Daniel, and Arsenath, wife of the said William, from their respective husbands, and by us made acquainted with the contents of the said within instrument of writing, they and each of them declared, they had executed the same freely and voluntarily, of their own free will and account, and as their and each of their act and deed, sealed and delivered the same without any coercion or compulsion of their said respective husbands. In witness whereof, we have hereunto set our hands and seals, at St. Louis, this 11th day of February, A. D. 1815.

JOSEPH CHARLES, *J. P.* [SEAL.]
M. P. LEDUC, *J. P.* [SEAL.]

William Clark, Governor of the Territory of Missouri, and commander-in-chief of the militia thereof, to all who shall see these presents.

Be it known, that Joseph Charles and Mary P. Leduc, are justices of the peace within and for the township of St. Louis, county of St. Louis, in the Missouri Territory, duly commissioned and qualified, and that faith and credit are due to their official attestations as such.

In testimony whereof, I have caused the territorial seal to be hereunto affixed. Given under my hand at St. Louis, this 17th day of February, in the year of our Lord one thousand eight hundred and fifteen, and the thirty-ninth of the American independence.

WILLIAM CLARK.

By the Governor:

F. BOERRIK, *Bdkt*,
Sec'y of Missouri Terr'y.

Recorded in book C, pages 98, 99 and 100, the 20th Feb'y, 1815.

JOHN HAY, *Recorder.*

Exhibit G, No. 7.—A 1.

To the honorable board of commissioners of the United States land office, sitting at Kaskaskia. The humble petition of Joseph Coudaire humbly showeth: that your petitioner is a poor man, and loaded with a heavy family, and came all the way from Canada here to join my father since six years past; whereupon, on my arrival here, learnt to my great sorrow that he was dead. Your petitioner some time since found out that my deceased father held an improvement, on which he lived for some years, and which he improved before the year 1790, on the eastern side of the Mississippi, opposite or near to the town of St. Louis; and that, unfortunately for your petitioner, I could neither read nor write, and more so that it is but lately I found out this improvement having been made by my deceased father, Pierre Coudaire, and your petitioner being sole heir to the said Pierre Coudaire, deceased, your petitioner prays that some indulgence will be given to him, not so much by reason of his ignorance, but on account of his large and helpless family; this said improvement your petitioner will vouch to have proven by the most respectable citizens of St. Louis and Cahokia, and thereupon relies all his hopes on your generosity and equity in getting this said improvement granted him by Congress, for whom he will ever pray.

For and at the desire of Joseph Coudaire,

JOHN HAY,
Clerk of the county court at Cahokia.

B 2.

Je certifie à tous ceus qu'il appartiendra qu'il sa environ vingt cinq ans que j'ai connu un nommé Pre Coudaire, que residait sur la rive gauche du Mississippi, en face de St. Louis, sur une habitation qu'il cultivait en dans et vendait les produits à St. Louis, et qu'a ma connaissance il y a demeure plusieurs années. En foi de quoi j'ai delivre la present certificat à St. Louis, le six September, 1809.

Signed, AUGT. CHOUTEAU.

C.

LOUISIANA TERRITORY,

District and township of St. Louis, sct:

Before me, the undersigned, one of the justices of the peace in and for the township aforesaid, personally came and appeared Jean Babts. Otis, Nicholas Herbert Lecount and Hyacinth St. Cir, of said district, who being duly sworn on the holy evangelists of Almighty God, deposes and says, that about twenty-six years ago, they have known a certain Pierre Coudaire, who inhabited and cultivated a certain tract of land east of the river Mississippi, fronting the town of St. Louis; that said Coudaire remained on the aforesaid tract during three or four years, and was then in the habit of crossing said river, and come to St. Louis to sell the produce of his land, such as tobacco, melons, &c., and had a

house built on said tract, and that said Coudaire was obliged to abandon said tract in consequence of the Indians becoming troublesome.

J. B. ORTIS,

his
NICHOLAS HERBERT ⋈ LACOUNTE.
mark

his
HYACINTH ⋈ ST. CIR.
mark

Sworn to and subscribed before me, a justice of the peace in and for the township aforesaid, this 28th day of October, A. D. 1809.

M. P. LEDUC, *J. P.*

C 3.

Frederick Bates, secretary of the Territory of Louisiana, and exercising the government thereof, to all whom it may concern:

Be it known that M. P. Leduc, before whom the within subscription and oath were made, is a justice of the peace for the township of St. Louis, district of St. Louis, in said Territory of Louisiana, duly commissioned and qualified, and that his certificate is in due form.

In testimony whereof, I have hereunto affixed the seal of the territory. Given under my hand at St. Louis, this 28th day of October, one thousand eight hundred and nine, and of the independence of the United States of America the thirty-fourth.

(Signed) FREDERICK BATES.

REGISTER'S OFFICE,
Kaskaskia, March 6th, 1817.

I do certify, that the preceding, from page 1 to 3 inclusive, are true copies of the original documents filed in my office at Kaskaskia, the 30th November, 1809, on which the confirmation of Pierre Coudaire is predicated.

MICH'L JONES, *Reg'r.*

D 4.

Extract of a list of claims transmitted by Michael Jones, register of the land office for the district of Kaskaskia, to the honorable Albert Gallatin, Secretary of the Treasury of the United States, 18 Jan'y, 1813.

Statement of claims founded on actual occupation and improvement, and the act of Congress of the 3d March, 1791.

No of claim 2667.

Original claimant, Joseph Coudaire.

Present claimant, heir of Pierre Coudaire.

Proof and remarks: Baptiste Ortis, Nicholas Herbert LeCompt, and Hyacinth St. Cir state, that about 26 years ago, (1783,) Pierre Coudaire, inhabited a tract of land east of the river Mississippi, fronting the town of St. Louis; that he remained on the said tract 3 or 4 years, that he

had a house built on the said improvement, and generally sold the produce of his said farm at St. Louis.

NOTE. This statement is corroborated by the certificate of Augt. Chouteau, of St. Louis.

The preceding claims appear to be founded in justice, but which have not been claimed within the time limited by law.

Kaskaskia, January 18*th* 1813.

(Signed) MICH'L JONES.

Extract from a letter from Michael Jones, register of the district of Kaskaskia, to the honorable Albert Gallatin, Secretary of the Treasury, dated January 18, 1813, inclosing a list of claims, including said Coudaire's.

SIR: I herewith transmit a statement of claims, of which no notices have been filed with the register within the time limited by law, but as these (D 6) claims appear to be founded in justice, I have, in compliance with the earnest solicitations of the claimants, ventured to make a statement of them, with the substance of the testimony adduced in their support. I felt the more inclined to take this course, as Mr. Backus and myself stood pledged to the claimants to do so, and as the members of the late board seemed to desire that I should make the representation myself, as being better acquainted with the circumstances and facts.

Should the Government confirm them, it would be advisable to confirm to the original claimant, or his legal representatives, as the title papers have neither been examined nor recorded by me. * * * *

(Signed) MICH'L JONES.

REGISTER'S OFFICE,

Kaskaskia, March 6, 1817.

I do certify, that the foregoing, from page 4 to 6 inclusive, are true extracts from a statement of claims, and my letter dated 18th January, 1813, transmitted by me to the Secretary of the Treasury of the United States.

MICH'L JONES, *Reg'r.*

Exhibit H, No. 8.

Pardevant les temoins sousignée su present en personne Joseph Coudaire, de Cahokias, comté St. Clair, territoire Indiana, lequel par ses presentes a reconnu et confessé avoir ce jourd'hui vendre, cedé, quitté, transporté, et delessé des maintenant et à toujour à Monsieur Nicolat Jarrot, de Cahokias, comte susdit, territoire susdit, ses hoirs ayant causes savoir quatre cent acres de terre d'improuvement situé à l'est du Misssissipi en face de la ville de St. Louis, a environ quatre mille et demy au desus de Cahokias, lequel quatre cent acres de terre mentionné ont été accordé a son defund pére Pierre Coudaire, par une act du Congress passé les trois de Mars mil sept cent quatre vingt onze, et comme ledit Joseph Coudaire est le seul heritier de son defund pere Pierre Coudaire,

lequel a par ses presentes, vendu, telle qu'il vent, cede, quitte, transporte, et delesse audit Nicolas Jarrot, ses hoirs ayant causes, les susdit quatre cent acres de terre d'improuvement mentionné pour et au dit Jarrot en jouir et disposer lui ses hoirs ayant causes comme chose a lui appartenante à commencer la jouissance de ce jourd'hui cette presente vende ainsi faite pour pris et somme de cent cinquante piastres, que ledit Joseph Coudaire a declaré et confessé avoir reçue contant des mains du dit Nicolas Jarrot, pour parfait payement des susdit quatre cent acres de terre d'improuvement mentionné et il le tien, quitte, et sans retour donne quittance étant pleinement satisfait car ainsi convenance, &c. Faite et passé a Cahokias le dix septieme jour du mois d'Avril de l'anné de notre Seigneur mil huit cent neuf. Le dit Joseph Coudaire a declaré ne s'avoir signé a faite sa marque ordinaire, et selé de son seau le jour et ans que desus; en presence des temoins sousignés apres lecture faite.

su
JOSEPH ⋈ COUDAIRE. [SEAL.]
marque

DREZY BLONDEAU,
WM. MEARS.

ILLINOIS TERRITORY, *St. Clair county.*

Be it remembered, that on the 27th day of January, 1812, personally came before me, the suscriber, a justice of the peace in and for the county aforesaid, William Mears, a subscribing witness to the within deed, who after being duly sworn on the holy evangelist of Almighty God says, that he subscribed the within deed, and that from his general practice of never subscribing any instrument, as an attesting witness, without first hearing the maker of said instrument either acknowledge that he made and executed it, or else first seeing him make and execute the same, and that he therefore believes he either saw said Joseph Coudaire either make his mark to the within deed affixed, or else heard him acknowledge the same after it was executed, he doth not now perfectly recollect which.

In testimony whereof, I have hereunto set my hand and seal, at Cahokia, the 27th Jan'y, 1812.

JOHN HAY, *J. P.* [L. S.]

Recorded in book C, page 52, the 29th August, 1814.
JOHN HAY, *Recorder, St. C.*

ILLINOIS TERRITORY, *St. Clair county, sct:*

Be it remembered, that on the fourth day of August, 1815, personally came before me, the subscriber, a justice of the peace in and for the said county, Drezy Blondeau, a subscribing witness to the within deed, who after being duly sworn on the holy evangelist of Almighty God, acknowledged and declared to have seen the within named grantor, Joseph Coudaire, make his ordinary mark and put his seal thereto, and deliver the same as his act and deed to the said Nicolas Jarrot, of his own free

will and accord; and that he verily believes that the other witness, William Mears, signed the same in his presence.

In testimony whereof, I have hereunto set my hand and seal, at Cahokia, the day and year above written.

RAPHAEL WIDEN, *J. P.* [L. S.]

Recorded the 4th August, 1815, page 121, book C.

JOHN HAY, *Recorder.*

I, Joseph Philips, secretary of the Illinois Territory, do hereby certify, that Raphael Widen, whose name is subscribed to the foregoing certificate, was, at the date thereof, a justice of the peace for the county of St. Clair, in the territory aforesaid, being duly commissioned and qualified to act as such.

In testimony whereof, I have hereto affixed the seal of the territory.

[SEAL.] Done at Kaskaskia, the ninth day of August, in the year of our Lord one thousand eight hundred and eighteen, and of the independence of the United States the forty-third.

JOSEPH PHILIPS.

Exhibit 1, No. 9.

Translation of N. Jarrot's Will.

In the name of God, amen. As it is certain that I must die, and that I do not know neither the hour nor the moment when it shall please God to determine my days, it is therefore, being in perfect health, I have put order to my affairs in the following manner—

In the name of the father, and of the son, and of the holy ghost, so be it: I give my body to the worms, and my soul to God, and supplicate his divine goodness to have pity on me. I implore the help of the holy Virgin to be so good as to intercede for me towards her divine son all the days of my life, and at the hour of my death, so be it.

I name for my executrix testamentary the person of Julia Beauvais, my wife, to whom I give the enjoying of all my property, as well real as personal, that I may have after my death, and at the moment of my dying, for her to enjoy peaceably during her life, on condition that with my said property she will fulfil the condition hereafter mentioned, that is to say:

1st. I request that my debts be paid by my executrix testamentary mentioned.

2nd. I demand that my executrix testamentary get one hundred masses said, and one funeral high mass.

3d. I request that she give to the church the sum of one hundred dollars, as soon as she can.

4th. I will that she distribute to the poor, as soon as she can, a sum not exceeding two hundred dollars.

5th. I request, also, that she procure the best education which is possible to be had in the United States to my two sons, named Francis and Vital.

6th. I also request, that she get instructed my two daughters, named Julie and Felicity.

7th. I also request, that my executrix testamentary aforesaid give to each of my children a quantity of land, not exceeding more than three hundred and twenty acres, and not less than one hundred and sixty acres, to be taken off my said lands, and on the spots and places which the said executrix testamentary aforesaid may think proper to give them, which compensation and distribution she shall make agreeable to the good behavior and situation of the said children. I will that in that case her deliberation on this distribution be as if the aforesaid property were her own; and if, in the interim, when she would wish to make this distribution of said lands above mentioned, she was to die without fulfilling her distribution above mentioned, him or her, of the children who had not received it, will have to take it in money before any division takes place.

8th. Express clause which is, if Julie, my wife, and my executrix testamentary, has not sufficient from the revenue of my property, as well real as personal, to make her live entirely independent after the clauses and conditions mentioned are fulfilled, to these reasons I desire and I will, that she sell as much of my property, real or personal, she may think proper, and as she may want it, so that she may live in the most easy and most independent manner.

9th. It is expressly understood, that the legacies I make to my executrix testamentary are independent of all that she has a right to in my estate, in community with her according to our contract of marriage, which part and portion appertaining to her she may dispose of as appertaining to her in full right.

10th. After the death of said Julie, my executrix testamentary, all the residue of my property, real and personal, will return to my children, born or to be born, to be divided between them in equal shares, excepting a sum of three thousand five hundred dollars, which my eldest daughter, named Mary Louisa Clayton Tiffin, shall have less than my other children, born or to be born, and that for and because all that I received from the stock of the estate of her deceased mother I have remitted to said Clayton Tiffin, and to her, as appears by their receipt herein enclosed; another reason, not less equitable to that, that the sum mentioned less than my other children is, that I have acquired a great deal of real property since I have been married with the said Julie Beauvais, my wife, and executrix testamentary. Yet another reason, which puts the balance of justice in my hands is, that I received at least two thousand dollars from the stock of said Julie, my wife, and executrix testamentary, coming from the estate of her deceased father, Vital Beauvais. Such are my wishes and my intentions, which I request my executrix testamentary to put into execution, as being my last will and testament and act, revoking all others, &c.

In testimony whereof, I have hereunto set my hand and affixed my

seal, in presence of the subscribers, at Cahokia, county of St. Clair, Illinois Territory, this 6th February, 1818.

N. JARROT. [SEAL.]

Witnesses—JOSEPH TROTIE,
RAPHAEL WIDEN,
LS. LAGRAVE.

STATE OF ILLINOIS, *St. Clair county.*

I, John Hay, judge of the court of probate of the said county of St. Clair, do hereby certify, the foregoing to be a true literal translation of the French original will of Nicholas Jarrot, which is recorded in my office in book A, pages 77, 78, 79.

In testimony whereof, I have hereunto set my hand and seal of office, this twentieth day of July, A. D. eighteen hundred and thirty. [SEAL.]

JOHN HAY, *Judge of Probate.*

Exhibit K, No. 10.

This indenture, made this thirteenth day of July, in the year of our Lord eighteen hundred and twenty-two, between Julie Jarrot, of the town of Cahokia, in the county of St. Clair, in the State of Illinois, of the one part, and Samuel Wiggins, of the county and State aforesaid, of the other part, witnesseth: that the said Julie Jarrot, for and in consideration of the sum of two thousand dollars, to her in hand paid by the said grantee, the receipt whereof is hereby acknowledged, and from every part and parcel thereof is therefrom acquitted and discharged, hath granted, bargained and sold, released and confirmed, and by these presents doth grant, bargain and sell, release and confirm, unto the said Samuel Wiggins, his heirs and assigns, forever, all her right, title, interest, claim, property, possession, and demand whatsoever, in all that certain tract or parcel of land, being the improvement right of one Pierre Coudaire, and located by Nicholas Jarrot, deceased, in his lifetime, opposite the town of St. Louis, in Missouri State, and known and described by the board of commissioners for adjusting land titles for the district of Kaskaskia as claim numbered two thousand six hundred and sixty-seven, and survey number seven hundred eighty-six, as by reference thereto being had more fully and at large will appear; as also all the right, title and claim whatever, that the said Nicholas Jarrot might have had at the time of his death, to any piece or parcel of land, being or lying in the said four hundred acres tract, or that the said Julie Jarrot, as heir at law of said Nicholas Jarrot, deceased, may now have, with all and singular the appurtenances thereunto belonging, or in any wise appertaining. To have and to hold the said above mentioned tract or parcel of land within said tract as above described, together with all the privileges and appurtenances thereunto belonging, to him, the said Samuel Wiggins, his heirs and assigns, forever. And the said Julia Jarrot, the said tract above described, or any parcel or piece of land within the said tract above described, against the claim of herself and of her

heirs and assigns, claiming by, through, or under her or any of them, to the said Samuel Wiggins, his heirs and assigns, doth by these presents warrant and forever defend. And it is hereby understood by the said parties, and it is the understanding, meaning, and intent of these presents, that should the title or right of said Nicholas Jarrot, deceased, at the time of his death, to the aforesaid tract of land or parcels of land, being in the said four hundred acres tract, at any time hereafter become or turn out to be defective, then and in that case no recourse whatever is to be had on the said Julie Jarrot, her heirs, executors, and administrators, by the said Samuel Wiggins, or by his heirs and assigns, any thing to the contrary in this deed notwithstanding.

In testimony whereof, I have hereunto set my hand and seal the the day and year first above herein written. The words, "had," "warrant" &c., "death" interlined.

JULIE JARROT. [SEAL.]

Signed, sealed, and delivered, in presence of—
JOHN HAY,
FRANCIS JARROT.

STATE OF ILLINOIS, *St. Clair county, ss:*

Be it remembered, that this 13th day of July, A. D. 1822, personally came before me, the subscriber, a justice of the peace for and within the said county of St. Clair, Julie Jarrot, party grantor named in the within deed, and acknowledged the same to be her act and deed, and that her right and title to the premises therein mentioned is the right and estate of Samuel Wiggins, party grantee, also therein named, and his heirs and assigns, forever.

Taken and acknowledged before me, the date aforesaid.

JOHN HAY. [SEAL.]

STATE OF ILLINOIS, *St. Clair county, ss:*

I, John Hay, recorder of said county of St. Clair, do hereby certify, that on the twenty-fourth day of January, A. D. eighteen hundred and twenty-three, I truly recorded the within deed of conveyance in book E, page 157.

Given under my hand, at my office in Belleville, the day and year above written.

JOHN HAY.

Exhibit L, No. 11.

An act to authorize Samuel Wiggins to make a turnpike road, and for other purposes; approved February 6th, 1821.

Sec. 1. Be it enacted, by the people of the State of Illinois, represented in the General Assembly, that Samuel Wiggins, his heirs or assigns, be, and hereby are, authorized to make and construct a turnpike road, of one hundred feet wide, to commence on the Mississippi river, opposite to St. Louis, on lands that may belong to him, to run thence across the American Bottom to the bluffs within two miles of George Swaggart's, and to construct and erect all necessary bridges

on said road; and that he or they be, and are hereby, authorized to build and make said turnpike road through the lands of any person or persons whomsoever, except yards, gardens, orchards, or dwelling-houses; that, when the aforesaid road is about to be carried through any improved land, the maker of said road shall first obtain the consent of the proprietor or proprietors of said grounds, and should the parties not agree on the amount of said damages, then a jury of six reputable freeholders should be summoned, and being duly sworn before any justice of the peace of the county faithfully and impartially to assess the damages, which damages shall be paid before the said road shall be permitted to pass through such grounds.

Sec. 2. Be it further enacted, that as soon as the said Samuel Wiggins, his heirs and assigns, shall have completed the said road, it shall be lawful for him or them to give notice thereof to the person administering the government of the State for the time being, who shall thereupon forthwith appoint three discreet freeholders to view the same, and report to him in writing, whether the same is completed in a workmanlike and substantial manner; and upon their report in the affirmative, it shall be the duty of the person administering the government of the State, and he is hereby required, to issue a license, under the seal of the State, permitting the said Samuel Wiggins, his heirs or assigns, to erect a toll gate, and to collect and receive the tolls and duties hereinafter granted and allowed, from all persons travelling on or using the same.

Sec. 3. Be it further enacted, that it shall and may be lawful for the owners of any lands through which said road may pass, at any time within twelve months after the license aforesaid may be issued, if he or they shall conceive that they have sustained any damage from the road having passed through their lands, to file an affidavit in the commissioners' court of the county in which the lands are situated, stating that they have sustained damage from the passage of said road through their land. Whereupon, it shall be the duty of said commissioners' court to appoint three discreet freeholders of the county, but not of the immediate neighborhood of the road, to estimate the damage such person may have sustained by the road having passed through his land; and the commissioners' when appointed, shall give notice of the time and place of meeting, whence they shall proceed to examine the ground, and shall make out, under oath, the damage such person may have sustained, and shall make a statement thereof in writing, and deliver the same in ten days thereafter to the clerk of said commissioners' court, who shall record and preserve the same; for which service the clerk shall be allowed the fees of the recorder of the county, and the valuers shall be allowed three dollars each per day for the time they shall be necessarily employed in making said valuation; and the sum so awarded as aforesaid may be recovered from the said Samuel Wiggins, his heirs or assigns, in any court having competent jurisdiction.

Sec. 4. Be it further enacted, that the commissioners' court of the county in which the said road may be situated shall be, and hereby

are, authorized and required to fix the rates of toll to be collected and received, as soon as the license above mentioned shall be obtained; and the said Samuel Wiggins, his heirs and assigns, are authorized and empowered to collect and receive the rates of toll so established from all persons using said road: Provided, however, that the said commissioners' court shall not be authorized to fix any rates of toll lower than the following: for a man and horse, twelve and a half cents; for a one-horse wagon or carriage, twenty-five cents; for all other wagons and carriages, six and a fourth cents for each wheel and each horse; for single horses and cattle, six and a fourth cents; for hogs and sheep, two cents each per head. And whereas the said Samuel Wiggins, his heirs and assigns, were authorized to establish a ferry upon the waters of the Mississippi river, near the town of Illinois in this State, and a sand bar having been formed since that time opposite said ferry, therefore:

Sec. 5. Be it further enacted, that the said Samuel Wiggins, his heirs and assigns, be, and they are hereby, authorized to remove said ferry on any land that may belong to him or them on the said Mississippi river, under the same privileges as were prescribed by the act entitled "an act to authorize Samuel Wiggins to establish a ferry upon the waters of the Mississippi. Approved March 2nd, 1819."

Sec. 6. Be it further enacted, that if the county in which said road is situated shall at any time be willing to pay the original costs of said road, with six per cent. interest thereon, to the said Samuel Wiggins, his heirs or assigns, then the said road and bridges thereon shall become a public highway.

Exhibit No. 12.

This deed, made this first day of August, in the year of our Lord one thousand eight hundred and thirty-one, between Samuel Wiggins and Cornelia, his wife, of the city of St. Louis, in the State of Missouri, of the first part; and John O'Fallon, Adam L. Mills, Bernard Pratte, Charles Mullikin, and William C. Wiggins, of the same city, and Samuel C. Christy, of Illinois, parties of the second part, witnesseth: that the said parties of the first part, for and in consideration of the sum of thirty-five thousand one hundred and twenty dollars, to them in hand paid at and before the ensealing and delivery hereof, have in consequence of such sum so paid them by said parties of the second part, given, granted, sold, aliened, confirmed, enfeoffed, and conveyed, and do hereby give, grant, sell, alien, confirm, enfeoff, and convey, unto said parties of the second part, the following described lands, tenements, hereditaments, rights, privileges, and personal property, namely: a tract of land containing four hundred acres, lying in St. Clair county, in the State of Illinois, on the bank of the Mississippi river, opposite to the city of St. Louis, being a location made by Nicholas Jarrot, and described by the board of commissioners for adjusting land titles for the district of Kaskaskia as claim numbered two thousand six hundred and sixty-seven, and survey numbered seven hundred eighty-six, being the same tract which was conveyed to said Samuel Wiggins, by Julie

Jarrot, by deed dated the thirteenth day of July, in the year eighteen hundred and twenty-two, recorded in the recorder's office of St. Clair county, in book E, page 157, portions of which said four hundred acre tract have likewise been conveyed to said Samuel Wiggins, by John McKnight and Thomas Brady, by deed dated nineteenth of May, in the year eighteen hundred and twenty-one, who obtained a patent from the United States therefor, which deed is recorded in said recorder's office, in book E, page 48 and 49; and by James Piggot, Zacheus Piggot, and Elizabeth Piggot, by deed dated the fourth of March, in the year eighteen hundred and twenty, recorded in said recorder's office, in book D, page 70, 71, and 72; and by Ninian Edwards and wife, by deed dated the first day of October, in the year eighteen hundred and twenty-seven, recorded in said recorder's office, book F, page 76 and 77; and by David Coons, by deed dated the fourteenth of June, in the year eighteen hundred and twenty-three, recorded in said recorder's office, book E, page 185 and 186; and also by John Scott and wife, and by John Boly, who have executed deeds to said Wiggins. Also three hundred and sixty-nine acres and twenty-two hundredths of an acre of land, lying in said county of St. Clair, comprising the southwest fractional detached part of the southwest quarter of section thirty-six, in township three north, of range ten west, and fractional sections one, two, eleven and twelve, in township two north, of range ten west, bounded south by lands confirmed to Nicholas Jarrot, and west by the Mississippi river, lying nearly opposite to the city of St. Louis, having been patented by the Government of the United States to Nelson Pepper, and by him conveyed to said Samuel Wiggins by deed dated the sixth of October, in the year eighteen hundred and twenty-seven, recorded in said recorder's office, book F, pages 64 and 65; and also conveyed to said Wiggins by George F. Strother and Enoch Stern and wives, by deed dated the sixth day of October, in the year eighteen hundred and twenty-seven, recorded in said recorder's office in book F, pages 289 and 290; also an island opposite the upper part of the city of St. Louis, conveyed to said Wiggins, the party of the first part, by two patents issued by the United States, the one for fractional section eleven, in township two north, of range ten west, in the district of Edwardsville, and State of Illinois, containing one hundred and twenty-eight acres and eighty-six hundredths of an acre; the other for fractional section two, in township two north, of range ten west, containing three acres and forty-seven hundredths of an acre, lying in the same district and State; which two patents are dated the ninth day of June, in the year of our Lord one thousand eight hundred and twenty-five.

Also a tract of land conveyed to said Wiggins, party of the first part, by Thomas Osborne and wife, by deed dated the eighteenth day of March, in the year eighteen hundred and twenty-nine, which tract is described as follows: a certain tract of land, situate in the county of St. Clair aforesaid, beginning on the Mississippi river, at the lower corner of a tract of thirty-seven and a half acres, conveyed to Robert Ranken by said Osborne in May, eighteen hundred and twenty-eight; thence,

continued down the river's bank, eight rods, measured upon a line of the general course of the river, to a post; and thence, north fifty degrees east, parallel to said Robert Rankin's lower line, about forty rods to the foot of a ridge; and thence with said ridge northwardly, to Robert Rankin's corner; and thence with said Rankin's line, south fifty degrees west, to the beginning.

Also a tract of land in said county of St. Clair, containing thirty-seven acres and fifty hundredths of an acre, bounded north by land of Mathew Kerr, east by land of Thomas Osborn, south by tract of land last above herein described and conveyed, and west by the Mississippi river; being the same land conveyed to the said Samuel Wiggins by Robert Ranken, by deed dated the day of June last past, and which was conveyed to said Rankin by said Osborne.

Also all rights, privileges, and benefits connected with, or appurtenant to said land, or any of them, of ferrying across the river Mississippi, and all rights and benefits touching the ferry established there, and carried on there by said Samuel Wiggins, conferred on him by the legislature of the State of Illinois by an act entitled "an act to authorize Samuel Wiggins to establish a ferry upon the waters of the Mississippi," approved March the second, in the year eighteen hundred and nineteen; and also by the act of the same legislature, entitled "an act to authorize Samuel Wiggins to make a turnpike road, and for other purposes," approved February sixth, in the year eighteen hundred and twenty-one; and by any other acts, laws, grants, licenses, or authority, under the State of Illinois or of Missouri, or under the United States, or from any source whatsoever.

Also the steam ferry boat and the horse boat, now running and employed by said Samuel in ferrying across from St. Louis, together with the horses, oxen and tackle, apparel and furniture, of said boats, or connected with them, or employed in said business of ferrying there, and all the plank, wood, timber, carts, utensils, and personal property whatsoever now on said lands; to have and to hold said several tracts of land above described, and said rights and privileges of ferrying, and said boats and appendages and tackle, and said personal property above mentioned, and all rights and privileges connected with said lands and appurtenant thereto, or to any part thereof, unto them, said parties of the second part, their heirs and assigns forever, as tenants in common, in the following proportions, to wit: the one undivided fourth part of said lands, rights and property, to said O'Fallon, his heirs and assigns; the one undivided fourth thereof to said Adam L. Mills, his heirs and assigns; the one undivided eighth part thereof to said Bernard Pratte, senior, his heirs and assigns; the one undivided eighth thereof to said Charles Mullikin, his heirs and assigns; the one undivided eighth part thereof to said William C. Wiggins, his heirs and assigns; and the other eighth part thereof to said Samuel C. Christy, his heirs and assigns. And the said Samuel Wiggins, for himself, his heirs, executors, and administrators, doth covenant and agree, with said O'Fallon, Mills, Pratte, Mullikin, Christy, and William C. Wiggins, their heirs and as-

signs, that he doth, and will forever, warrant and defend said lands, rights, and personal property, to the said parties of the second part, their heirs and assigns, only as against himself, the said Samuel Wiggins, and all persons lawfully claiming or to claim, by, through, or under him. And the said Samuel, for himself, his heirs, executors, and administrators, doth further covenant and agree, with said parties of the second part, their heirs and assigns, that in case said parties of the second part, their heirs or assigns, shall at any time hereafter be lawfully evicted and ejected from said land, or from any part of it, then, and in every such case, the said Samuel Wiggins, or his heirs or representatives, shall pay to said parties of the second part, their heirs or assigns, forthwith, at the rate of ten dollars per acre of said land, for so much as they shall have been so ejected from.

In testimony whereof, the said parties have hereunto set their hands and seals, the day and year first above written.

SAMUEL WIGGINS, [SEAL.]
CORNELIA WIGGINS. [SEAL.]

Signed, sealed, and delivered, in presence of—

LYMAN B. SHAW,
HENRY CHOUTEAU.

STATE OF MISSOURI, *County of St. Louis, ss:*

Be it remembered, that on this first day of August, in the year of our Lord eighteen hundred and thirty-one, before me, the clerk of the county court, within and for the county aforesaid, personally came Samuel Wiggins and Cornelia, his wife, both personally known to me to be the real persons whose names are subscribed to the foregoing instrument of writing, as having executed the same, and severally acknowledged the same to be their act and deed for the purposes therein mentioned; she, the said Cornelia, being by me first made acquainted with the contents thereof, and examined separate and apart from her husband, whether she executed the said deed, and relinquishes her dower to the lands and tenements therein mentioned, voluntarily, freely, and without compulsion, or undue influence of her said husband, acknowledged and declared, that she executed the said deed, and relinquishes her dower in the said lands and tenements therein mentioned, voluntarily, freely, and without compulsion or undue influence of her said husband.

In testimony whereof, I have hereunto set my hand, and the seal of [SEAL.] said county court, at the city of St Louis, the day and year aforesaid.

HENRY CHOUTEAU, *Clerk.*

STATE OF ILLINOIS, *St. Clair county.*

RECORDER'S OFFICE, *24th August*, 1831.

I do hereby certify, that the within deed and foregoing certificate, were this day truly recorded in book F, pages 457, 458, 459, of this office.

JOHN HAY, *Recorder, St. C. C.*

Exhibit N, No. 13.

This deed, made this first day of February, eighteen hundred and thirty-eight, witnesseth: that John O'Fallon and Caroline, his wife, of the county of St. Louis, and State of Missouri, in consideration of six thousand five hundred dollars to us in hand paid by John H. Gay, of the county of St. Louis, and State of Missouri, the receipt of which is hereby acknowledged, do by these presents grant, bargain and sell, convey and confirm, to the said John H. Gay, his heirs and assigns, forever, one-eighth, being the half of the said O'Fallon and wife's right, title, and interest, to a tract of four hundred acres, a tract of three hundred and sixty-nine $\frac{22}{100}$ acres; fractional section one, two, eleven, and twelve, in township two north, of range ten west, the island opposite to the upper part of the city of St. Louis, a tract of thirty-seven and and a half acres, acquired by Robert Ranken, from Thomas Osborne, as well as another tract acquired by Samuel Wiggins of said Osborne, south of this last mentioned, all situated in the county of St. Clair, State of Illinois, together with all rights, privileges. and benefits, connected with or appurtenant to said lands, or any part of them, of ferrying across the river Mississippi, and said O'Fallon and wife's half of every other interest acquired by Samuel Wiggins and wife, by deed dated August 1st, 1831. To have and to hold the same, with the privileges and appurtenances thereunto belonging, to the said John H. Gay, heirs and assigns, forever. And the said John O'Fallon and Caroline, his wife, hereby covenanting that they and their heirs, executors and administrators, will warrant and defend the title to the said premises to the said John H. Gay, his heirs and assigns, forever, against all persons lawfully claiming, or to claim, the same whatever, by, through, or under them, and none other.

In witness whereof, the said John O'Fallon and Caroline, his wife, have hereunto set their hands and seals the day and year first above written.

J. O'FALLON, [SEAL.]
CAROLINE O'FALLON. [SEAL.]

Signed, sealed, and delivered, in presence of—

STATE OF MISSOURI, *county of St. Louis, ss:*

Be it remembered, that on this twenty-eighth day of February, eighteen hundred and thirty-eight, before me, the undersigned, clerk of the circuit court within and for the county aforesaid, came John O'Fallon and Caroline, his wife, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument of writing, as having executed the same, and severally acknowledged the same to be their act and deed, for the purposes therein mentioned. She, the said Caroline, being by me first made acquainted with the contents thereof, acknowledged, on an examination apart from her said husband, that she executed the same and relinquished her dower in the

real estate therein mentioned freely and without compulsion or undue influence of her said husband.

In testimony wherof, I have hereunto set my hand and affixed the [SEAL.] seal of said court at office, in the city of St. Louis, the date last aforesaid.

JNO. RULAND, *Clerk.*

STATE OF ILLINOIS, *St. Clair county.*

RECORDER'S OFFICE, 23*d May*, 1838.

I do hereby certify, that the within deed and certificate were this day truly recorded in book I, page 285, of this office.

JOHN HAY, *Recorder, St. C. C.*

Exhibit O, No. 14.

This deed, made this sixteenth day of December, eighteen hundred and forty-three, witnesseth: that John O'Fallon and Caroline, his wife, of the county of St. Louis, and State of Missouri, in consideration of seven thousand dollars to us in hand paid by Andrew Christy of the county of St. Louis, and State of Missouri, the receipt of which is hereby acknowledged, do, by these presents, bargain and sell, convey and confirm, to the said Andrew Christy, his heirs and assigns, forever, one eighth, being the whole of said O'Fallon and wife's interest, right, and title, in and to a tract of four hundred acres of land, being claim No. 2667, survey No. 786, including therein claim No. 99, survey 579, claim No. 489, survey No. 624, and claim No. 100, survey No. 766. Also another tract of land, containing three hundred and sixty-nine $\frac{22}{100}$ acres, being the southwest fractional detached part of the southwest quarter of section No. 36, township three north, range 10 west; and fractional sections, Nos. one, two, eleven and twelve, township 2 north, range 10 west; also an island opposite the city of St. Louis, the same being fractional sections Nos. 2 and 11, township 2 north, range 10 west, containing one hundred and thirty-two acres, more or less.

Also a tract of land containing thirty-seven and a half acres, being the same acquired by Robert Ranken of Thomas Osborne; and lastly, another tract acquired by Samuel Wiggins of the aforesaid Osborne, south of the last named piece, all situated in the county of St. Clair, State of Illinois, and the whole derived by us from Samuel Wiggins, by deed bearing date August first, 1831. Also the interest of the said John O'Fallon in all rights and benefits connected with or appurtenant to said lands, or any of them, of ferrying across the Mississippi river; and his interest in all rights or benefits touching the ferry now established, and carried on from said lands by the St. Clair and St. Louis Steam Ferry Company, under the title of Samuel Wiggins, by authority conferred on him by the Legislature of the State of Illinois, by an act entitled "an act to authorize Samuel Wiggins to establish a ferry upon the waters of the Mississippi," approved March 2d, 1819. And also by the act of the same Legislature, entitled "an act to authorize Samuel Wiggins to make a turnpike road, and for other purposes,"

approved February 6th, 1821; and by any other act, laws, grants, licenses, or authority, under the State of Illinois or of Missouri, or under the United States, or from any other source whatsoever.

Also one-eighth part of the steam ferry boats now running and employed by the aforesaid St. Clair and St. Louis Steam Ferry Company, in ferrying across from St. Louis, together with the tackle, apparel, and furniture of said boats, or connected with them, or employed in said business of ferrying; and also all the platforms, plank, timber, wood, coal, carts, oxen, utensils, and personal property whatsoever, in any manner appertaining to said ferry company.

To have and to hold said eighth part of the within described lands, together with all the interest of said O'Fallon in the rights and privileges of ferrying, whether connected with said lands or not, and in said boats and appendages and tackle, and said personal property above mentioned; and in all rights and privileges connected with said lands, or appurtenant thereto, or to any part thereof, unto him, the said Andrew Christy, his heirs and assigns, forever; and the said John O'Fallon hereby covenants, that he and his heirs, executors and administrators, will warrant and defend the title to said premises, rights, boats, and personal property, to the said Andrew Christy, his heirs and assigns, forever, only as against himself, the said John O'Fallon, and all persons lawfully claiming or to claim by, through, or under him, the said John O'Fallon. And the said John O'Fallon, for himself, his heirs, executors and administrators, further covenants and agrees, with said Andrew Christy, his heirs and assigns, that in case said Andrew Christy, his heirs or assigns, shall at any time hereafter be lawfully evicted and ejected from the land herein conveyed, or any part of it, then and in every such case the said Andrew Christy, his heirs and assigns, shall have the full benefit and advantage of the covenants contained in the deed from said Samuel Wiggins to said John O'Fallon and others, for the said land, and may recover thereon, for his or their use, as fully as the said O'Fallon might do if he had not conveyed.

In testimony whereof, the said John O'Fallon and Caroline, his wife, have hereunto set their hands and seals the day and year first above written.

JOHN O'FALLON, [SEAL.]
CAROLINE O'FALLON. [SEAL.]

Signed, sealed, and delivered in presence of—

STATE OF MISSOURI, *County of St. Louis, ss:*

I, Christopher Garvey, a notary public in and for said county, duly commissioned and qualified, *reciting* in the city of St. Louis, in said county, do certify, that on this twenty-first day of December, A. D. one thousand eight hundred and forty-three, personally appeared before me, in said county, John O'Fallon, and on this twelfth day of January, A. D. one thousand eight hundred and forty-four, also personally appeared before me, in said county, Caroline O'Fallon, wife of said John

O'Fallon, who are both personally known to me to be the same persons whose names are subscribed to the foregoing instrument of writing as parties thereto, and they severally acknowledged the said instrument to be their act and deed for the purposes therein mentioned.

The said Caroline having been by me first made acquainted with the contents of said conveyance, acknowledged, on an examination apart from her husband, that she executed the same, and relinquishes her dower in the real estate therein mentioned, freely and without compulsion or undue influence of her said husband.

In testimony whereof, I, the said notary, have hereunto set my hand and affixed my notarial seal at St. Louis aforesaid, the day and year last above written.

[SEAL.]

C. GARVEY, *Notary Public,*
in and for St. Louis county.

STATE OF MISSOURI, *County of St. Louis, ss:*

Be it remembered, that on this twenty-second day of February, eighteen hundred and forty-four, before me, the undersigned, clerk of the circuit court within and for the county aforesaid, came John O'Fallon and Caroline, his wife, who are known to me to be the real persons whose names are subscribed to the foregoing instrument of writing, as parties thereto, and severally acknowledged the same to be their act and deed, hands and seals, for the purposes therein expressed. She, the said Caroline O'Fallon, being by me first made acquainted with the contents of said instrument of writing, acknowledged and declared, on an examination separate and apart from her husband, that she executed the same freely and voluntarily, and relinquished her dower to the real estate therein cenveyed, without any compulsion or undue influence of her said husband.

In testimony whereof, I hereto set my hand and affixed the seals of said court, at office in the city of St. Louis, the day and year last aforesaid.

[SEAL.]

JNO. RULAND, *Clerk.*

STATE OF ILLINOIS, *St. Clair county, ss:*

RECORDER'S OFFICE, *27th April*, 1844.

I do hereby certify, that the within deed and certificates were this day truly recorded in book O, pages 295, 296, and 297, of this office.

RICHARD HAY, *Recorder, St. C. C.*

Exhibit P, No. 15.

This deed, made by Adam L. Mills and Matilda, his wife, of St. Louis, Missouri, parties of the first part, and Andrew Christy, of the same place, party of the second part, witnesseth: that said parties of the first part, for and in consideration of the sum of eight thousand dollars, to them in hand paid by the said Christy at and before the delivery hereof, the receipt whereof is hereby acknowledged, have granted, bargained and sold, aliened, enfeoffed and confirmed, and by these pre-

STATE OF ILLINOIS, *St. Clair county.*

RECORDERS' OFFICE, 31*st Oct.*, 1840.

I certify that the within deed and certificate were this day truly recorded in book L, pages 332, 333, 334, and 335, of this office.

JOHN HAY, *Recorder St. C. C.*

Exhibit Q, No. 16.

The Auditor of Public Accounts of the State of Illinois, to all who shall see these presents, greeting:

Know ye, that whereas I did, on the 12th day of January, A. D. 1832, at the town of Vandalia, in conformity with all the requisitions of the several acts in such cases made and provided, expose to public sale a certain tract of land, being claim No. ninety-nine, survey No. five hundred and seventy-nine, west of the 3d principal meridian, for the sum of one dollar and 69 cents, being the amount of the tax for the year 1831, with the interest and costs chargeable on said tract of land; and whereas, at the time and place aforesaid, J. O'Fallon offered to pay the aforesaid sum of money for one hundred acres, the whole of said tract of land, which was the least quantity bid for, and the said J. O'Fallon has paid the sum of one dollar and 69 cents into the treasury of the State, I have granted, bargained and sold, and by these presents, as auditor of the aforesaid State, do grant, bargain and sell, one hundred acres, the whole of claim No. ninety-nine, survey No. five hundred and seventy-nine, west of the third principal meridian, to J. O'Fallon, his heirs and assigns; to have and to hold said tract of land to the said J. O'Fallon and his heirs forever; subject however to all the rights of redemption provided for by law.

In testimony of which, the said auditor has hereunto subscribed his name and affixed his seal, this 10th day of February, 1835.

[SEAL.]

JAMES T. B. STAPP, *Auditor.*

STATE OF ILLINOIS, *St. Clair county, ss:*

RECORDER'S OFFICE,

the 25th March, 1844.

I do hereby certify, that the within deed was this day truly recorded in book O, page 224, of this office.

RICHARD HAY, *Recorder St. C. C.*

Exhibit R, No. 17.

This indenture, made this eighteenth day of March, in the year of our Lord one thousand eight hundred and forty-four, by and between John O'Fallon and Caroline, his wife, of the first part, and Andrew Christy, John H. Gay, Charles Mullikin, Adam L. Mills, William C. Wiggins, and Elizabeth Christy and Mary T. Christy, children of the late Samuel C. Christy and Melanie Christy, widow of the said Samuel C. Christy, Bernard Pratte, and Ramsey Crooks and Emily, his wife, Lewis Penguet and Therese, his wife, Stephen F. Niedlet and Celeste,

his wife, Louis V. Bogy and Pelagie, his wife, Joseph Blair and Aimie, his wife—the said Bernard Pratte, and Crooks and wife, Penguet and wife, Niedlet and wife, Bogy and wife, and Blair and wife, being the heirs and legal representatives of the late Bernard Pratte, deceased, witnesseth: that whereas the said party of the first part, on the twelfth day of January, in the year one thousand eight hundred and thirty-two, purchased for taxes at the town of Vandalia, in the State of Illinois, viz., a tract of land, being claim number one hundred, survey number seven hundred and sixty-six, west of the third principal meridian, and containing one hundred acres; and also one other tract of land, being claim number ninety-nine, survey number five hundred and seventy-nine, west of the third principal meridian, containing one hundred acres.

And also one other tract of five acres, off the east side of claim number four hundred and eighty-nine, survey No. six hundred and twenty-four, west of the third principal meridian. And also three hundred and sixty-nine acres, the whole of the southwest fractional section thirty-six, township three north, range ten west, and fractional section one, two, eleven and twelve, township two north, range ten west, of the third principal meridian; and also one hundred and sixty-one acres and eight hundredths of an acre, the whole fraction section four, in township two north, range ten west, of the third principal meridian; and also four acres and thirty-four hundredths acres, the whole of fractional section two, in township two north, range ten west, of the third principal meridian; now, in consideration of the sum of one dollar, to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, the said O'Fallon and wife hereby convey, sell, and quit claim, to the said parties of the second part, their heirs and assigns, forever, viz: one undivided fourth part to the said Andrew Christy; one undivided eighth part to the said John H. Gay; one undivided eighth part to the said Charles Mullikin; one undivided eighth part to the said Adam L. Mills; one undivided eighth part to the said William C. Wiggins; one undivided eighth part to the widow and legal representatives of the said Samuel C. Christy; and one undivided eighth part to the said heirs and legal representatives of the said Bernard Pratte, deceased; all the right, title, which the said party of the first part may have acquired in virtue of the purchase aforesaid, made on the said twelfth day of January, in the year one thousand eight hundred and thirty-two, it being expressly understood that this deed is to operate only as a quit-claim deed.

In testimony whereof, the said O'Fallon and wife have hereunto set their hands and seals the day and date above written.

J. O'FALLON, [SEAL.]
CAROLINE O'FALLON. [SEAL.]

STATE OF MISSOURI, *County of St. Louis, ss:*

Be it remembered, that on the twentieth day of March, eighteen hundred and forty-four, before me, the undersigned, clerk of the St.

Louis court of common pleas within and for said county, came John O'Fallon and Caroline O'Fallon, his wife, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument of writing as parties thereto, and severally acknowledged the same to be their act and deed for the purpose therein mentioned. She, the said Caroline O'Fallon, having been first made acquainted with the contents of said conveyance, acknowledged, on an examination apart from her said husband, that she executed the same, and relinquishes her dower in the real estate therein mentioned, freely, and without fear or compulsion, or undue influence of her said husband.

In testimony whereof, I hereto set my hand and affix the seal of said court at office, in the city of St. Louis, the day and year above written. [SEAL.]

N. PASCHALL, *Cl'k.*

STATE OF ILLINOIS, *St. Clair county, ss:*

RECORDER'S OFFICE, *the 25th March*, 1844.

I do hereby certify, that the within deed and certificate was this day truly recorded in book O, pages 226 and 227, of this office.

RICHARD HAY, *Recorder St. C. C.*

Exhibit S, No. 18.—*Copy.*

This indenture and agreement, made and concluded this sixteenth day of January, A. D. eighteen hundred and forty-four, between Richard Bradsley, Simon Stookey, and Daniel T. Moore, county commissioners of the county of St. Clair, and State of Illinois, for and on behalf of the county of St. Clair, of the one part, and James Harrison, of the city and county of St Louis, and State of Missouri, of the other part, witnesseth: that the said county commissioners, for and in consideration of the rent, and performance of the covenants and agreements hereinafter mentioned, on the part of the said James Harrison, his executors, administrators and assigns, to be paid and performed, have demised, granted and let, and by these presents do demise, grant and let, unto the said James Harrison, a certain ferry landing, established on the east side of the Mississippi river, located between Cahokia creek and said river, in said county of St. Clair, and described as follows: beginning on the west side of Cahokia creek, from which a forked elm tree, (the N. E. corner of the Campbell tract of one hundred acres,) said elm tree is about fourteen inches diameter, bears north $21\frac{1}{2}°$ west, 72 links; and a maple six inches diameter, bears south 87° west, 26 links distant, and run from said post, south $87\frac{1}{2}$ west, 6 chains 4 links; a sycamore 26 in. dia. at $11\frac{50}{100}$ chains, intersect the Mississippi river; thence go to the place of beginning, and run thence down Cahokia creek, south $2\frac{1}{2}°$ east, three hundred feet to a post in Cahokia creek, from which an ash 6 in. dia. bears south 88° west, 33 links; and run thence from said post, S. $87\frac{1}{2}°$ west, at $8\frac{32}{100}$ chains, a sycamore 8 in. dia. $12\frac{50}{100}$ chains, intersect the Mississippi river, with the privilege of

ferrying from said landing across the Mississippi river, near the city of St. Louis, State of Missouri, with all the appurtenances, privileges and advantages, belonging, or in any wise appertaining, to a ferry; to have and to hold the said ferry landing, with the appurtenances, and to enjoy the said privilege of ferrying, unto the said James Harrison, his executors, administrators and assigns, from the date of these presents, for and during, and until the full expiration and end or term of five years, fully to be completed and ended; yielding and paying therefor, yearly and every year during said term of five years, to the said county of St. Clair aforesaid, the yearly rent of eight hundred dollars, lawful money of the United States, in four quarterly equal instalments, in each and every year during the present demise; the said rents or quarterly payments to be made to treasurer of the said county of St. Clair, or his order, as they become due and payable at the end of each quarter. And provided always, and on this condition, that if it shall happen that the said yearly rent shall be in arrears and unpaid, in all or in part, for the space of ten days next after any of the times of payment thereof before mentioned, that then it shall and may be lawful, to and for said county commissioners, or either of them, or their successors in office, or either of them, to declare this lease forfeited; and with the assent and approval of said commissioners, or a majority of them, shall enter and take possession of the said demised premises, or any part thereof, in the name of the whole, reoccupy, possess and enjoy, and occupy the same; and the said James Harrison, his executors, administrators or assigns, and all other occupants and possessors of the said demised premises, or any part thereof, throughout and from thence to expel, put out, and remove, and to enjoy the right and privilege of ferrying as aforesaid, until all such arrearages of rent and legal interest therefor, and all and every costs, charges, and expenses, incurred by the said county commissioners, or their successors in office, by reason of the non payment of said rent, shall be fully satisfied and paid, or to make distress for said rent.

And the said James Harrison, for himself, his executors, administrators or assigns, does hereby covenant and agree, to and with the said county commissioners, or their successors in office, for and on behalf of the county of St. Clair, in manner and form following, that is to say: The said James Harrison, his administrators and assigns, hereby covenants and agrees, and by these presents doth bind himself, to keep in good repair the bridge across Cahokia creek, leading to said demised premises and ferry; and also to keep in good order and repair the road from the bridge aforesaid to the river, the effects of rain and water on the road excepted only. And the said James Harrison doth further agree, for himself, his administrators or assigns, that he shall keep himself provided with at least one good and substantial steam ferry boat, and also with two good and substantial platforms for the landing of said boat or boats on each side of the river, and that he will run the said boat or boats, during the term of said lease, for the accommodation of the

Louis court of common pleas within and for said county, came John O'Fallon and Caroline O'Fallon, his wife, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument of writing as parties thereto, and severally acknowledged the same to be their act and deed for the purpose therein mentioned. She, the said Caroline O'Fallon, having been first made acquainted with the contents of said conveyance, acknowledged, on an examination apart from her said husband, that she executed the same, and relinquishes her dower in the real estate therein mentioned, freely, and without fear or compulsion, or undue influence of her said husband.

In testimony whereof, I hereto set my hand and affix the seal of said court at office, in the city of St. Louis, the day and year above written. [SEAL.]

N. PASCHALL, *Cl'k.*

STATE OF ILLINOIS, *St. Clair county, ss:*

RECORDER'S OFFICE, *the 25th March*, 1844.

I do hereby certify, that the within deed and certificate was this day truly recorded in book O, pages 226 and 227, of this office.

RICHARD HAY, *Recorder St. C. C.*

Exhibit S, No. 18.—*Copy.*

This indenture and agreement, made and concluded this sixteenth day of January, A. D. eighteen hundred and forty-four, between Richard Bradsley, Simon Stookey, and Daniel T. Moore, county commissioners of the county of St. Clair, and State of Illinois, for and on behalf of the county of St. Clair, of the one part, and James Harrison, of the city and county of St Louis, and State of Missouri, of the other part, witnesseth: that the said county commissioners, for and in consideration of the rent, and performance of the covenants and agreements hereinafter mentioned, on the part of the said James Harrison, his executors, administrators and assigns, to be paid and performed, have demised, granted and let, and by these presents do demise, grant and let, unto the said James Harrison, a certain ferry landing, established on the east side of the Mississippi river, located between Cahokia creek and said river, in said county of St. Clair, and described as follows: beginning on the west side of Cahokia creek, from which a forked elm tree, (the N. E. corner of the Campbell tract of one hundred acres,) said elm tree is about fourteen inches diameter, bears north 21½° west, 72 links; and a maple six inches diameter, bears south 87° west, 26 links distant, and run from said post, south 87½ west, 6 chains 4 links; a sycamore 26 in. dia. at $11\frac{50}{100}$ chains, intersect the Mississippi river; thence go to the place of beginning, and run thence down Cahokia creek, south 2½° east, three hundred feet to a post in Cahokia creek, from which an ash 6 in. dia. bears south 88° west, 33 links; and run thence from said post, S. 87½° west, at $8\frac{32}{100}$ chains, a sycamore 8 in. dia. $12\frac{50}{100}$ chains, intersect the Mississippi river, with the privilege of

ferrying from said landing across the Mississippi river, near the city of St. Louis, State of Missouri, with all the appurtenances, privileges and advantages, belonging, or in any wise appertaining, to a ferry; to have and to hold the said ferry landing, with the appurtenances, and to enjoy the said privilege of ferrying, unto the said James Harrison, his executors, administrators and assigns, from the date of these presents, for and during, and until the full expiration and end or term of five years, fully to be completed and ended; yielding and paying therefor, yearly and every year during said term of five years, to the said county of St. Clair aforesaid, the yearly rent of eight hundred dollars, lawful money of the United States, in four quarterly equal instalments, in each and every year during the present demise; the said rents or quarterly payments to be made to treasurer of the said county of St. Clair, or his order, as they become due and payable at the end of each quarter. And provided always, and on this condition, that if it shall happen that the said yearly rent shall be in arrears and unpaid, in all or in part, for the space of ten days next after any of the times of payment thereof before mentioned, that then it shall and may be lawful, to and for said county commissioners, or either of them, or their successors in office, or either of them, to declare this lease forfeited; and with the assent and approval of said commissioners, or a majority of them, shall enter and take possession of the said demised premises, or any part thereof, in the name of the whole, reoccupy, possess and enjoy, and occupy the same; and the said James Harrison, his executors, administrators or assigns, and all other occupants and possessors of the said demised premises, or any part thereof, throughout and from thence to expel, put out, and remove, and to enjoy the right and privilege of ferrying as aforesaid, until all such arrearages of rent and legal interest therefor, and all and every costs, charges, and expenses, incurred by the said county commissioners, or their successors in office, by reason of the non payment of said rent, shall be fully satisfied and paid, or to make distress for said rent.

And the said James Harrison, for himself, his executors, administrators or assigns, does hereby covenant and agree, to and with the said county commissioners, or their successors in office, for and on behalf of the county of St. Clair, in manner and form following, that is to say: The said James Harrison, his administrators and assigns, hereby covenants and agrees, and by these presents doth bind himself, to keep in good repair the bridge across Cahokia creek, leading to said demised premises and ferry; and also to keep in good order and repair the road from the bridge aforesaid to the river, the effects of rain and water on the road excepted only. And the said James Harrison doth further agree, for himself, his administrators or assigns, that he shall keep himself provided with at least one good and substantial steam ferry boat, and also with two good and substantial platforms for the landing of said boat or boats on each side of the river, and that he will run the said boat or boats, during the term of said lease, for the accommodation of the

public, from the said ferry landing to the opposite bank of the Mississippi river at the city of St. Louis.

And it is further expressly agreed and understood, by and between the parties to this lease, that if the said party of the second part shall neglect or refuse to prosecute his said contract, or to run the said ferry boat or boats for the accommodation of the public, or shall neglect or refuse to keep the platforms, boats, or the bridge, levee, or other improvements, which have heretofore been made on or near said ferry landing, (by virtue of, and under a former contract heretofore existing between the said commissioners of St. Clair county and Isaac M'Cord and Jonathan B. Moulton,) in good repairs during the term of this lease, or shall charge any higher price or rates of ferriage than as hereinafter set forth, and as agreed upon to be charged in either or all of such cases, the party of the first part, upon an order to that effect being made by the county commissioners' court, and due and reasonable notice being first given to the said lessee, or his administrators or assigns, or all those claiming under said lessee, to appear and defend, with the right of appeal as in other cases, may declare this lease to be abandoned on the party of the second part, and may further proceed to relet the said ferry landing and privileges of ferrying, for and during the term then not expired, without any hindrance or disturbance of the said parties of the second part, or any person or persons claiming to act for or under them. The said party of the second part, binding himself to keep at all times a boat or boats of equal quality to those now owned by said lessee, for the transportation of all passengers, their teams, horses, cattle, and other animals, as well as their produce and effects of whatsoever description, and to furnish said boats with all the machines and implements for the service thereof, and with men of sufficient number, strength, and discretion and skill to manage the same, and to keep the places of embarking and landing in good repair by the erection of platforms as herein before set forth, so that passengers, their teams, horses, cattle, and other property, may be embarked and landed without danger or unnecessary delay, and to give constant and diligent attention to said ferry, from day-light in the morning until dark in the evening of each day, excepting only to the said lessee, or his administrator or assigns; that in case of unavoidable accident to said boat or boats, or to the said platforms, from sinking, burning, or any unforeseen or unavoidable accidents, then and in such case the said lessee, or those under him, shall have a reasonable time allowed to repair and recommence operation. And the said party of the second part, for himself, his executors, administrators and assigns, doth further covenant and agree, to and with the parties of the first part, that they will charge, for and during the term of this lease, no more than the following fare or rates of ferriage as follows on next page:

Drivers, and children under ten years of age, with their parents or guardians - - - - - -	Free.
Each foot passenger - - - - - -	0 6¼

Each passenger per day	0 18¾
Each one horse wagon, sulky or gig	0 50
Each two horse wagon or carriage	0 75
Each three horse wagon or carriage	0 87½
Each four horse wagon or carriage	1 00
Each five horse wagon	1 12½
Each six horse wagon	1 25
Each horseman	0 25
Each led horse or head of cattle	0 12½
Each barrel of salt, cider, beef, pork or vinegar, flour, whiskey or other spirits	0 6¼
Each one hundred pounds of merchandise	0 6¼
Each head of hogs or sheep	0 4

Market wagons and carts, loaded with produce, growth or manufacture of the State of Illinois, and returning empty, any time within ten days after crossing, viz:

Each one horse cart, each way	0 18¾
Each one horse wagon, each way	0 18¾
Each two horse wagon, each way	0 31¼
Each three or four horse wagon, each way	0 37½
Each five or six horse wagon, each way	0 50

Merchant's wagons loaded one way and returning empty, or pleasure carriages returning any time within ten days after crossing.

Each horseman going over	0 25
Each horseman returning	0 12½
Each one horse cart, each way	0 25
Each one horse wagon, gig or sulky, each way	0 37½
Each wagon usually drawn by two horses, each way	0 43¾
Each three horse wagon, each way	0 50
Each four horse wagon, each way	0 62½
Each five or six horse wagon, each way	0 75

Merchant's wagons, loaded both ways.

Each two horse wagon, each way	0 50
Each three horse wagon, each way	0 62½
Each four horse wagon, each way	0 68¾
Each five or six horse wagon, each way	0 75

And for the better performance of the aforesaid covenants and agreements, to be performed by the party of the second part, the said party of the second part binds himself, his heirs and assigns, in the penal sum of twenty thousand dollars, good and lawful money of the United

States, to be paid to the said county commissioners or their successors in office, for the use and benefit of St. Clair county, if default be made in any of the aforesaid covenants and agreements, to be performed by the said party of the second part, in accordance with the true meaning and intent of the foregoing stipulations. And the said county commissioners, for and on behalf of the said county of St. Clair, do covenant and agree, to and with the said James Harrison, his executors, administrators and assigns, that they will (on payment of the stipulated rent, and other performances, being complied with by the party of the second part, as stipulated in this instrument,) keep secured to the said party of the second part, the quiet and peaceable possession of the aforesaid demised premises, with the privileges, appurtenances, and advantages, thereunto belonging, and with the exclusive privilege of ferrying, for and during the said term of five years, without any let, trouble, or hinderance, of the said county commissioners or their successors in office, and without the imposition of any tax, license, or assessment, from the said county of St. Clair. And the said party of the first part, for themselves and their successors in office, do further covenant and agree, with the said party of the second part, that they will at all times hereafter, during the said term of five years, hereby demise, bear, pay and discharge all taxes, rates, assessments, and other public dues, impositions, or charges of every kind and nature whatsoever, which shall or may at any time hereafter during said term be taxed, assessed, levied, or imposed on said ferry landing, and the privilege of ferrying, by an act of the legislature of the State of Illinois.

And it is further understood, by and between the said county commissioners and their successors in office, and the said James Harrison, his executors, administrators and assigns, that at any time the said commissioners or their successors in office, shall deem it to be actually necessary for the interest and accommodation of the public, the said Harrison, his administrators or assigns, may be required to run two ferry boats from said ferry landing across the Mississippi river, to the said city of St. Louis, the said county commissioners hereby agreeing to give three months notice to said Harrison, or his agents, or assigns in writing, and the said Harrison hereby obliges himself to run an additional boat if required, in accordance with the foregoing stipulations.

And it is further expressly agreed and understood, by the said county commissioners and their successors in office, and the said James Harrison, for himself, his executors, administrators, and assigns, that he, the said Harrison, or any person claiming under him, will not at any time during this lease, sell or transfer said ferry and ferry privilege, or any part or portion thereof, to any person or persons, corporation or body politic, who now are or may be owners of, or interested in, the Wiggins ferry company, so called; and that such transfer to such person or persons, corporation or body politic as before mentioned, shall make void the present lease. Provided, however, and it is hereby further covenanted and agreed between the said parties, that in case the said Harrison, his executors, administrators and assigns, shall be prevented from the full,

free, perfect, and quiet possession and enjoyment of the said ferry landing and ferry privilege as aforesaid, demised to him the said Harrison, by process of law, then, for and during the time he may be so prevented, he shall not be liable for the payment of rent to the parties of the first part.

It is also further agreed and stipulated, by and between the parties, the said commissioners for themselves and their successors in office, and the said Harrison for himself, his executors, administrators and assigns, that if at the expiration of this lease the said county commissioners should conclude and determine to take possession of, and run the said ferry for the use of, and in the name of the said county of St. Clair, (as authorized by the act of the legislature of the State of Illinois, granting said ferry privilege to the county of St. Clair,) or if they should lease it to any other person or persons than the said Harrison, then and in that case, it is agreed between both parties, that the said steam ferry boat or boats that may be on hand, belonging to said Harrison, his executors, administrators or assigns, for the purpose of running from said ferry landing across the Mississippi river to St. Louis, together with all their furniture, tackle, and apparel, of every kind and nature belonging thereto, as well also as all the platforms and fixtures on each side of the river for land ng purposes, and the coal sheds, blacksmith shops, and carpenter shops, erected on the said demised premises, for the use of the ferry property, shall all be valued by disinterested persons, the county commissioners choosing one of the valuers, the said Harrison, or his administrators or assigns, another, and they to choose a third; which said persons shall value the whole of said property at its cash value, and the said county commissioners, or their successors in office, are hereby bound to take it at such valuation, and pay cash in hand; and the said Harrison, his administrators and assigns, are hereby bound and obliged to give up and surrender all said property, boats, &c., at such valuation, and on payment of the money.

It is however further provided and understood, that there shall not be more than two steam ferry boats, and three pair of platforms, for landing purposes, to be valued and paid for under this agreement; nor shall the coal shed, blacksmith shop, and carpenter shop, amount in valuation to more than three hundred dollars to be paid for.

In testimony whereof, the said parties of the first part have hereunto set their hands officially, and caused the seal of the said county commissioners' court to be hereunto affixed the day and year first above written, and in open court, at a special term of said [SEAL.] court, holden on the day and year aforesaid. And the said parties of the second part have hereunto set his hand and seal the day and year aforesaid.

DANIEL T. MOORE,
RICHARD BRADSLY,
SIMON STOOKEY.
County Commissioners.

Attest:
WM. MCCLINTOCK.

JAMES HARRISON. [L S.]

I, William McClintock, clerk of the county commissioners' court of St. Clair county, Illinois, do hereby certify, that the above seal is the seal of the county commissioners' court of said St. Clair county, and has been affixed by me as clerk in open court, this 16th day of January, A. D. 1844.

WM. McCLINTOCK, *Cl'k.*

STATE OF ILLINOIS, *St. Clair county, ss:*

I, William McClintock, clerk of the county commissioners' court of St. Clair county, do hereby certify, that the foregoing is a true copy of an instrument of writing on file in the clerk's office of the county commissioners' court of said county of St. Clair, endorsed "lease of county ferry to James Harrison, filed 16th January, 1844."

In testimony whereof, I hereunto set my name and affix the seal of the said county commissioners' court, at office in Belleville, the 10th day of July, A. D. 1844.

[SEAL.]

WM. McCLINTOCK, *Clerk.*

Exhibit T, No. 25.

See the plat hereto attached.

Exhibit Z, No. 26.

(For plat, see original.)

SURVEYOR'S OFFICE,
St. Louis, 13th October, 1843.

The above plat of a part of town. 2, north of the base line, range 10 west, of the 3d principal meridian, is correctly copied from the plat of that township on file in this office.

SILAS REED,
Surveyor of the public lands in the State of Illinois & Missouri.

Exhibit Z, No. 26.

Upon which said bill of complaint, an order is endorsed in words and figures following:

Order for writ of injunction.

To the clerk of the circuit court for St. Clair county.

Let a subpœna with injunction issue, according to the prayer of the foregoing bill, enjoining and restraining the County of St. Clair, and

James Harrison, and all persons claiming under them, from carrying on a ferry, or exercising ferry privileges from the land in the bill mentioned as belonging to complainants, on the complainants, or any two of them, entering into bond in your office in the penalty of twelve thousand dollars, with James Mitchell, Vital Jarrot, and Thomas G. Lofton, as securities, payable to said County of St. Clair and James Harrison, conditioned to pay them such damages as they shall sustain, by reason of granting this injunction, in case the same shall be dissolved.

Given under my hand this 1st day of November, A. D. 1844.

SAML. D. LOCKWOOD,
One of the Justices of the Supreme Court of the State of Illinois.

And the said complainants having also filed a bond, entered into before the clerk, in words following:

Injunction bond.

Know all men by these presents, that we, J. H. Gay and Andrew Christy, as principals, and James Mitchell, Vital Jarrot, and Thomas G. Lofton as sureties, are held and firmly bound unto the County of St. Clair, of the State of Illinois, and to James Harrison, in the penal sum of twelve thousand dollars; to the payment of which, well and truly to be made to the said County and the said Harrison, or their legal representatives, we bind ourselves and our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this eighth day of March, A. D. 1845.

The condition of this obligation is such, that whereas a suit in chancery is about to be commenced in the circuit court, of said county of St. Clair, by the above named Andrew Christy and John H. Gay, along with divers others in said bill named, against said County and said James Harrison, and under an order in writing made by the Hon. Samuel D. Lockwood, one of the justices of the supreme court of the State of Illinois, a writ of injunction is about to be issued, enjoining and restraining the County of St. Clair and James Harrison, and all persons claiming under them, from carrying on a ferry, or exercising ferry privileges from the land in the bill mentioned as belonging to the complainants. Now, in case the said injunction shall be dissolved, the said obligors, their heirs, executors, and administrators, shall pay to the said County of St. Clair, and said James Harrison, or their legal representatives, such damages as they shall sustain by reason of granting said injunction.

AND. CHRISTY, [SEAL.]
JOHN H. GAY, [SEAL.]
J. MITCHELL, [SEAL.]
VITAL JARROT, [SEAL.]
THOMAS G. LOFTON. [SEAL.]

On the 8th day of March, A. D. 1845, a writ of subpœna issued in words and figures following, to wit:

Subpœna.

STATE OF ILLINOIS, *County of St. Clair, sct:*

The people of the State of Illinois, to the sheriff of St. Clair county, greeting:

We command you, that you summon the County of St. Clair and James Harrison, defendants, to be and appear in the circuit court within and for the county of St. Clair, and State of Illinois, at the next term thereof, to be holden at the court house in the town of Belleville, in said county, on the second Monday of May next, then and there in said court in chancery sitting, to answer the bill of complaint exhibited against them by Adam L. Mills, John H. Gay, Charles Mullikin, (John O'Fallon,) William C. Wiggins, Andrew Christy, Elizabeth Christy, Mary F. Christy, Melanie Christy, which Melanie is the widow, and which said Elizabeth Christy and Mary F. Christy are the only children and heirs at law of Samuel C. Christy, deceased—said children being infants, and appearing by said Melanie, their next friend and mother; Emily Pratte, widow of Bernard Pratte, deceased; Ramsey Crooks and Emilie, his wife, Louis Penguet and Therese, his wife, Stephen F. Niedlet and Celeste, his wife, Louis V. Bogy and Pelagie, his wife, Joseph Blaine and Aimi, his wife--which said Emilie Crooks, Bernard Pratte, and Therese Penguet, and Celeste Niedlet, Pelagie Bogy, and Aimi Diane Blaine, are children and only heirs at law of Bernard Pratte, deceased; and not fail under the penalty of what the law directs.

And have you then and there this writ with your return thereon.

Witness William C. Kinney, clerk of the circuit court within and for the county of St. Clair, and State of Illinois, and the seal [SEAL.] of said court hereto affixed, at office in Belleville, this eighth day of March, A. D. one thousand eight hundred and forty-five.

WM. C. KINNEY.

Upon which said writ, the sheriff has endorsed his return of service in words and figures following:

Sheriff's return.

On and before the 28th day of April, 1845, I served the within subpœna on James Harrison and Richard Bradsby, Daniel T. Moore and Simon Stooky, commissioners of St. Clair county; also George Hastings, captain of the steam ferry boat, on the St. Clair ferry, and Peter Vanderoost, engineer of said boat, by delivering to the above named persons each a correct copy of the within.

S. B. CHANDLER, *Sheriff St. C. C.*
By D. W. HOPKINS, *Dep'y.*

And on the day and year last aforesaid, a writ of injunction issued in words and figures following, to wit:

Injunction.

STATE OF ILLINOIS, *County of St. Clair, sct:*

The people of the State of Illinois, to the County of St. Clair, and to James Harrison, and all persons claiming under them, greeting:

Whereas, Adam L. Mills, John H. Gay, Charles Mullikin, John O'Fallon, William C. Wiggins, Andrew Christy, Elizabeth Christy, Mary F. Christy, Melanie Christy, which Melanie is the widow, and which said Elizabeth Christy and Mary F. Christy are the only children and heirs at law of Samuel C. Christy, deceased—said children being infants, and appearing by said Melanie, their next friend; Emily Pratte, widow of Bernard Pratte, deceased; Ramsey Crooks and Emily, his wife, Bernard Pratte, Louis Penguit and Therese, his wife, Stephen F Niedlet and Celeste, his wife, Louis V. Bogy and Pelagie, his wife, Joseph Blaine and Aimi, his wife—which said Emily Crooks, Bernard Pratte, Therese Penguit, Celeste Niedlet, Pelagie Bogy, and Aimi Diane Blaine, are children and only heirs at law of Bernard Pratte, deceased; have filed in the clerks' office of the circuit court, within and for the county of St. Clair, and State of Illinois, their bill of complaint against the County of St. Clair and James Harrison, praying, amongst other things, a writ of injunction to restrain them, and all persons holding under them, from carrying on a ferry, or exercising ferry privileges, from the lands in the said bill mentioned as belonging to said complainants, to wit: a tract of land lying and being in the said county of St. Clair, and bounded in manner following, to wit, beginning at a walnut on the bank of the Mississippi; thence, south five degrees west, 218 perches, to a cottonwood; thence, south eighty-five degrees east, 73½ perches, to an elm; thence, north five degrees east, 218 perches, to a sycamore; thence, north 85 degrees west, 73½ perches, to the place of beginning, on the Mississippi river, near the town of Illinois; and also a tract of land, on the banks of the Mississippi and Cahokia creek, beginning on the river south 5 degrees west, 160 poles; south 85 degrees east, 130 poles, to the Cahokia creek; north 30 degrees east, 173 poles; north 85 degrees west, 70 poles, to the beginning; upon which said bill of complaint an order is endorsed, by the Hon. Samuel D. Lockwood, one of the justices of the supreme court of the State of Illinois, directing the clerk of the St. Clair circuit court to issue the writ of injunction as prayed for, on the said complainants, or any two of them, entering into bond, in the penalty of twelve thousand dollars, with James Mitchell, Vital Jarrot, and Thomas G. Isofton, as securities, payable to the said County of St. Clair and James Harrison, conditioned to pay them such damages as they shall sust in, by reason of granting said injunction, in case the same shall be dissolved. And whereas the said complainants have filed in the said clerks' office a bond, in compliance with said order so endorsed upon said bill, as aforesaid.

We, therefore, in consideration of the premises, do by these presents strictly enjoin and command you, the said County of St. Clair and the said James Harrison, and all persons holding under you, your laborers, agents, servants, and attornies, and all and each of you, that you do from henceforth absolutely and entirely desist from carrying on a ferry, or exercising ferry privileges, from the lands herein before and in the said bill of complaint mentioned and described, until the further order of the circuit court within and for the said county of St. Clair, in the premises to the contrary. And hereof fail not, under the penalty of what the law directs.

Witness William C. Kinney, clerk of the circuit court, within and for the county of St. Clair, and State of Illinois, and the seal [SEAL.] of said court hereto affixed at office, this 8th day of March, A. D. 1845.

WM. C. KINNEY.

Upon which writ of injunction the sheriff has endorsed his return of service in words and figures following:

Sheriff's return.

On and before the 28th day of April, 1845, I served the within writ of injunction on Daniel T. Moore, Richard Bradsly, and Simon Stookey, commissioners of St. Clair county, James Harrison, George Hastings, captain of the steam ferry boat, on the St. Clair county ferry, and Peter Vanderooit, engineer of said boat, by delivering to each a correct copy of the within writ.

S. B. CHANDLER, *Sheriff St. C. C.*
By D. W. HOPKINS, *Dep'ty.*

Whereupon, afterwards, at the term of the court aforesaid, on the second Tuesday thereof, a demurrer was filed in words and figures following:

Demurrer of the county.

The demurrer of the County of St. Clair, one of the defendants to the bill of complaint of Adam L. Mills, John H. Gay, and others, complainants.

This defendant, by protestation, not confessing or acknowledging all or any of the matters and things in said bill contained to be true in manner and form as the same *or* therein stated and set forth, demurs to the said bill, and for cause of demurrer, shows that the said complainants have not by their said bill made such a case as entitles them in a court of equity to any discovery from this defendant, or to any relief against them, as to matters contained in the said bill, or any of such matters; and that any discovery which can be made by this defendant, touching the matters complained of in the said bill, or any of them, cannot be of any avail to the said complainants for any of the purposes for which a discovery is sought against this defendant by the said bill, nor entitle the complainants to any relief in this court, touching any of the

matters therein complained of; wherefore, and for divers other good causes of demurrer appearing in the said bill, this defendant demurs thereto, and prays judgment of the court, whether they shall be compelled to make any other and further answer to said bill; and they pray to be hence dismissed with their costs, &c.

L. & G. TRUMBULL, *Sols. for the county of St. Clair.*

To which the complainants added:

Joinder.

Joinder in demurrer.

BATES & GAMBLE & DOUGLASS, *for Compt's.*

And an order was thereupon made by said court, as follows:

Set for hearing.

At this day, on motion and by consent of the parties, it is ordered by the court, that this cause be set for next Wednesday morning for hearing; and on the said Wednesday:

Decree.

At this day, come the complainants, by Bates and Douglass, their solicitors, and the County of St. Clair, one of the defendants, by Trumbull and Gillespie, their solicitors, and the demurrer heretofore filed by the said defendant to the said complainants' bill is argued, and after argument heard thereon, is sustained by the court; and it is thereupon ordered, adjudged and decreed by the court, that the complainants' bill, as to the said County of St. Clair, be dismissed, and the injunction herein granted be dissolved, and that the County of St. Clair recover of the complainants their costs about their defence of this suit expended.

And on motion of the complainants, it is ordered by the court, that a rule be entered against the said James Harrison, the other defendant, to answer, plead, or demur to complainants' bill by to-morrow morning, nine o'clock.

Whereupon the said James Harrison filed his demurrer in words and figures following:

Harrison's demurrer.

The demurrer of James Harrison, one of the defendants to the bill of complaint of A. L. Mills and others, complainants.

This defendant, not admitting all or any of the matters and things in the said complainants' bill contained to be true, in such manner and form as the same are therein and thereby set forth and alleged, demurs to the said bill, and for cause of demurrer shews, that said complainants have not by their said bill made such a case as entitles them in a court of equity to any discovery from this defendant, or to any relief against him as to the matters contained in the said bill, or any of such matters. Wherefore, and for divers other good causes of demurrer

We, therefore, in consideration of the premises, do by these presents strictly enjoin and command you, the said County of St. Clair and the said James Harrison, and all persons holding under you, your laborers, agents, servants, and attornies, and all and each of you, that you do from henceforth absolutely and entirely desist from carrying on a ferry, or exercising ferry privileges, from the lands herein before and in the said bill of complaint mentioned and described, until the further order of the circuit court within and for the said county of St. Clair, in the premises to the contrary. And hereof fail not, under the penalty of what the law directs.

Witness William C. Kinney, clerk of the circuit court, within and for the county of St. Clair, and State of Illinois, and the seal [SEAL.] of said court hereto affixed at office, this 8th day of March, A. D. 1845.

WM. C. KINNEY.

Upon which writ of injunction the sheriff has endorsed his return of service in words and figures following:

Sheriff's return.

On and before the 28th day of April, 1845, I served the within writ of injunction on Daniel T. Moore, Richard Bradsly, and Simon Stookey, commissioners of St. Clair county, James Harrison, George Hastings, captain of the steam ferry boat, on the St. Clair county ferry, and Peter Vanderooit, engineer of said boat, by delivering to each a correct copy of the within writ.

S. B. CHANDLER, *Sheriff St. C. C.*
By D. W. HOPKINS, *Dep'ty.*

Whereupon, afterwards, at the term of the court aforesaid, on the second Tuesday thereof, a demurrer was filed in words and figures following:

Demurrer of the county.

The demurrer of the County of St. Clair, one of the defendants to the bill of complaint of Adam L. Mills, John H. Gay, and others, complainants.

This defendant, by protestation, not confessing or acknowledging all or any of the matters and things in said bill contained to be true in manner and form as the same *or* therein stated and set forth, demurs to the said bill, and for cause of demurrer, shows that the said complainants have not by their said bill made such a case as entitles them in a court of equity to any discovery from this defendant, or to any relief against them, as to matters contained in the said bill, or any of such matters; and that any discovery which can be made by this defendant, touching the matters complained of in the said bill, or any of them, cannot be of any avail to the said complainants for any of the purposes for which a discovery is sought against this defendant by the said bill, nor entitle the complainants to any relief in this court, touching any of the

matters therein complained of; wherefore, and for divers other good causes of demurrer appearing in the said bill, this defendant demurs thereto, and prays judgment of the court, whether they shall be compelled to make any other and further answer to said bill; and they pray to be hence dismissed with their costs, &c.

L. & G. TRUMBULL, *Sols. for the county of St. Clair.*

To which the complainants added:

Joinder.

Joinder in demurrer.

BATES & GAMBLE & DOUGLASS, *for Compt's.*

And an order was thereupon made by said court, as follows:

Set for hearing.

At this day, on motion and by consent of the parties, it is ordered by the court, that this cause be set for next Wednesday morning for hearing; and on the said Wednesday:

Decree.

At this day, come the complainants, by Bates and Douglass, their solicitors, and the County of St. Clair, one of the defendants, by Trumbull and Gillespie, their solicitors, and the demurrer heretofore filed by the said defendant to the said complainants' bill is argued, and after argument heard thereon, is sustained by the court; and it is thereupon ordered, adjudged and decreed by the court, that the complainants' bill, as to the said County of St. Clair, be dismissed, and the injunction herein granted be dissolved, and that the County of St. Clair recover of the complainants their costs about their defence of this suit expended.

And on motion of the complainants, it is ordered by the court, that a rule be entered against the said James Harrison, the other defendant, to answer, plead, or demur to complainants' bill by to-morrow morning, nine o'clock.

Whereupon the said James Harrison filed his demurrer in words and figures following:

Harrison's demurrer.

The demurrer of James Harrison, one of the defendants to the bill of complaint of A. L. Mills and others, complainants.

This defendant, not admitting all or any of the matters and things in the said complainants' bill contained to be true, in such manner and form as the same are therein and thereby set forth and alleged, demurs to the said bill, and for cause of demurrer shews, that said complainants have not by their said bill made such a case as entitles them in a court of equity to any discovery from this defendant, or to any relief against him as to the matters contained in the said bill, or any of such matters. Wherefore, and for divers other good causes of demurrer

appearing in the said bill, this defendant demurs thereto, and he prays judgment, whether he shall be compelled to make any further or other answer to said bill, and to be herein dismissed with his costs.

L. & G. TRUMBULL, *Sol's for*
JAMES HARRISON.

To which the complainants add:

Joinder in demurrer.

BATES & GAMBLE & DOUGLASS,
for Compl'ts.

Upon which demurrer the following proceedings were had by the said court:

Decree.

At this day the said James Harrison, one of the defendants, having filed his demurrer to the complainants' bill, according to the rule of this court entered against him, come again the said parties by their solicitors, and the said demurrer is argued, and after argument heard thereon is sustained by the court. And thereupon it is ordered, adjudged, and decreed by the court, that the said bill of complaint be dismissed, and the injunction granted thereon be dissolved, and that the defendants recover of and from the complainants their proper costs and charges by them about their defence expended.

And thereupon the complainants pray an appeal to the supreme court, which is granted, upon two of the complainants, John H. Gay and Andrew Christy, entering into bond within thirty days with James Mitchell, their security, in the penal sum of five thousand dollars, conditioned according to law, and payable to said defendants.

Afterwards, on the 4th day of June, A. D. 1845, the said complainants filed their bond in words and figures following, to wit:

Appeal bond.

Know all men by these presents, that we, Andrew Christy, John H. Gay, and James Mitchell, owe and are indebted to the County of St. Clair and James Harrison, in the sum of five thousand dollars, to the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly, severally, and firmly, by these presents. Witness our hands and seals this day of May, A. D. 1845.

The condition of the above obligation is such, that whereas, in a certain cause heretofore pending in the circuit court, within and for the county of St. Clair, in chancery, upon the bill of said Andrew Christy and John H. Gay, and Adam L. Mills, Charles Mullikin, William C. Wiggins, Elizabeth Christy, Mary F. Christy, Melanie Christy, which Melanie is the widow, and which Elizabeth Christy and Mary F. Christy are the only heirs at law, of Samuel C. Christy, deceased—they being infants, and appearing by Melanie Christy, their next friend;

Emily Pratte, widow of Bernard Pratte, deceased, Ramsey Crooks and Emily, his wife, Lewis Penguet and Therese, his wife, Stephen F. Niedlet and Celeste, his wife, Louis V. Bogy and Pelagie, his wife, Joseph Blaine and Aimi, his wife—which said Emily Crooks, Bernard Pratte, Therese Penguet, Celeste Niedlet, Pelagie Bogy, and Aimi Blaine, are heirs at law of Bernard Pratte, deceased, *complainants*, and the County of St. Clair and James Harrison, defendants upon a final decree in that cause the said complainants prayed an appeal to the supreme court at the time of rendering said decree, which was granted by the court, upon the said Andrew Christy and John H. Gay, two of said complainants, entering into bond with James Mitchell, their security, to the said defendants in the sum of five thousand dollars; now. if the said complainants shall well and duly prosecute the said appeal, and shall pay the judgment, costs, interest, and damages, to the said defendants, in case the decree shall be affirmed, then this obligation to be void; otherwise to remain in full force and virtue.

ANDREW CHRISTY, [SEAL.]
JOHN H. GAY, [SEAL.]
J. MITCHELL. [SEAL.]

I, Theodore Englemann, clerk of the circuit court, within and for the county of St. Clair, and State of Illinois, do hereby certify the forgoing to be a correct and complete copy of the pleas and proceedings had in the above entitled case, as the same appear on file and of record in my office.

In testimony whereof, I have hereunto signed my name, and affixed the seal of said court at office, this second day of September, A. D. 1845. [SEAL.]

THEOD. ENGELMANN.

Upon which said transcript is the following endorsement, to wit:

Filed 14th Oct., 1845.

E. PECK.

And afterwards, to wit, on the fourth day of December, in the year of our Lord one thousand eight hundred and forty-five, the following assignment of errors and joinder in error, in the above entitled cause, were filed in the office of the clerk of the supreme court of the State of Illinois, and attached to the foregoing transcript; which said assignment of errors and joinder in error are in the words and figures following, to wit:

In the Supreme Court of Illinois, December term, 1845.

ADAM L. MILLS, & others, appellants,
vs.
JAMES HARRISON & others, appellees.

And now at this day, come the appellants by their attorney into the supreme court, and say, that in the record and proceedings of the said circuit court of St. Clair county, and in rendering the decree by the said

circuit court, there is manifest error in this, that by the record and proceedings aforesaid, it appears that the said circuit court rendered a decree in favor of the appellees, when by the law of the land the same should have been rendered in favor of the appellants; therefore in that there is error.

There is also error in this, that by the record and proceedings aforesaid it appears that the said circuit court decreed a dissolution of the injunction which had been issued in the cause, when by the law of the land the said injunction should have been made perpetual; therefore in that there is error.

There is also error in this, that by the record and proceedings aforesaid it appears that the said circuit court dismissed the bill of the said appellants, when by the law of the land the said appellants were entitled to the relief prayed in their said bill; therefore in that there is error.

Wherefore, as well for the errors aforesaid, as for other errors in the record and proceedings aforesaid appearing, the said appellants pray that the decree of the said circuit court, in form aforesaid rendered, be reversed, annulled, and for nought held and esteemed, and that they be restored, &c.

GAMBLE & BATES,
For Appellants.

HARRISON et als.
als.
MILLS et als.

The said defendants come and say, that in the record and proceedings aforesaid there is not any error as has been within assigned, and this they pray may be inquired of, &c.

TRUMBULL & GILLESPIE,
For Deft's.

Upon which said assignment of errors, and joinder in error, is the following endorsement, to wit:

Filed 4th Dec., 1845.

E. PECK, *C. S. C.*

And afterwards, to wit, on the eighth day of December, in the year of our Lord one thousand eight hundred and forty-five, of the December term of said supreme court, in the year of our Lord one thousand eight hundred and forty-five, the appellants filed their brief in the above entitled cause, in the office of the clerk of the supreme court, which said brief is in the words and figures following, to wit:

ADAM L. MILLS & others, appellants,
vs.
JAMES HARRISON & others, appellees.

This is an appeal from a decree rendered by the circuit court of the county of St. Clair, in a suit in chancery, in which the appellants were complainants, and the appellees were defendants.

The bill states that the general assembly of the State of Illinois passed an act, which was approved on the 2d day of March, 1819, by which there was granted to Samuel Wiggins, his heirs and assigns, the franchise of establishing and maintaining a ferry across the Mississippi river, from land near the town of Illinois, which might belong to him, which ferry was to be maintained with horse or steam boats, and was to be put into operation within eighteen months from the passage of the act. That within the time limited by the act the ferry was put into operation from land of Wiggins, and has ever since been kept in operation, the boats used being of the description required by the act; that said grant was ratified and extended by the act of 6th February, 1821; that Wiggins purchased other land than that owned by him at the time of establishing his ferry, and that the land so purchased was necessary to his enjoyment of the franchise, and to the discharge of his duties in the exercise of his franchise, because of the character of the stream and of its banks; that the stream often and suddenly changes its channel, and the banks are constantly falling in, so that a place suitable for the landing of a boat at one time, often becomes in a very short time entirely unapproachable; that Wiggins continued faithfully to discharge his duties under his contract with the State; that, by sundry conveyances, the title to the property acquired by Wiggins, and to the franchise granted to him, has become vested in the complainants, and that they have, since they became owners, discharged all the duties which devolved upon them as the owners of that franchise; that the general assembly of the State of Illinois, in violation of the Constitution of the United States, passed an act on the 2d March 1839, entitled an act to authorize St. Clair county to establish a ferry across the Mississippi river, the provisions of which are set out in the bill; that under this act the commissioners have proceeded to lay out a road of three hundred feet wide, and to take as a ferry landing three hundred feet in front of the land of the complainants upon the river; that the land so taken is necessary to the complainants to the secure and permanent enjoyment of their franchise, and that the franchise may become valueless without it; that the act authorizing this taking of the complainant's property, did not in express terms require any assessment of the damages which the complainants might sustain by the invasion of their franchise, and that their property has been attempted to be taken from them without compensation for the injury which they sustain, by its appropriation to the purposes for which it has been taken; that the value of the property taken as assessed by the jury was $600, but that no money was ever tendered to these complainants until the 19th July, 1842, when the amount by the computation of lawful interest was $680, and when the tender was made, it was only of $600; that the county of St. Clair has entered upon the land by its agents, and has leased the ferry to the other defendants, and that they are actually conducting the same on the land

taken from the complainants, which land was, when the bill was filed, almost the only point for a ferry landing on all the lands owned by the complainants.

Upon this bill an injunction was granted to restrain the defendants from carrying on their ferry.

On the return of the process the defendants demurred to the bill. The circuit court sustained the demurrer, dissolved the injunction, and dismissed the bill.

The complainants appealed.

For the appellants it is insisted—

1. That the establishment and regulation of ferries across navigable streams is a subject within the control of the Government, and not matter of private right, and that the Government may exercise its power by contracting with individuals. Wille's Reports, 512; 3 Salk. 198; 6 Bam. and Cress, 703; 5 Bam. and Cress, 875; 5 John. C. R. 101; 4 Burr, 2161; 4 Dum. and East. 439, 668; 1 Con. R. 382; 17 J. R. 195; 11 Peters, 569. Act 2d March, 1839; 7 Pick. 344.

2. That the acts of the general assembly of the 2d March, 1819, and of the 6th February, 1821, are contracts of the State of Illinois with Samuel Wiggins, his heirs and assigns, which are protected from legislative invasion by the Constitution of the United States. Fletcher vs. Peck, 6 Cranch, 87; 2 Cond. R. 308. Providence Bank vs. Billings & others, 4 Peters, 514; New Jersey vs. Wilson, 7 Cranch, 164; 2 Cond. Rep. 457; Tenett vs. Taylor, 9 Cranch, 43; Dartmouth College vs. Woodward, 4 Wheat. 518.

3. That it is an unconstitutional invasion of the contract for the State to take from the complainants the property which is necessary to their enjoyment of their franchise, 11 Peters, 549, 566.

4. That the act which authorizes the taking of the complainants' property, and giving it to others to be used for the same purpose for which complainants are employing it, is unconstitutional. Constitution of Illinois, 11 Peters, 642; 3 Dallas, 386.

5. That the act of 2d March, 1839, is against the constitution of Illinois, in not providing a compensation for the injury done to complainants by taking the land for the purpose of establishing a ferry, and thus impairing the value of the complainants' franchise, 11 Peters, 420; 3 Kent's Com. (title franchise) 366.

6. That the act of 2d March, 1839, has not been complied with, previous to the establishment of the ferry, and therefore the parties could not, under that law, establish or maintain such ferry.

GAMBLE & BATES,
For Appellants.

Upon which said brief is the following endorsement, to wit:

Filed 8th Dec, 1845.

E. PECK, *C. S. C.*

And afterwards, to wit, on Friday, the twelfth day of December, in the year of our Lord one thousand eight hundred and forty-five, of the

December term of said supreme court, in the year of our Lord one thousand eight hundred and forty-five, the following order was entered of record, on the records of said court:

Present the honorable Thomas C. Browne,
" " Samuel D. Lockwood,
" " Walter B. Scates,
" " Samuel H. Treat,
" " John D. Caton,
" " Norman H. Purple.

ADAM L. MILLS et al.
vs
THE COUNTY OF ST. CLAIR et al.

On this day came the defendants by Lyman Trumbull, their attorney, and move the court to have the final order in the above cause, affirming the judgment of the court below, entered at the June term, one thousand eight hundred and forty, so far amended as to set forth the names of the parties to said suit at length upon the record; and the court not being sufficiently advised, took time to consider.

And afterwards, to wit, on Saturday, the thirteenth day of December, in the year of our Lord one thousand eight hundred and forty-five, of the December term of said supreme court, in the year one thousand eight hundred and forty-five, the following order was entered of record on the records of said court:

Present the honorable Thomas C. Browne,
" " Samuel D. Lockwood,
" " Walter B. Scates,
" " Samuel H. Treat,
" " John D. Caton,
" " Norman H. Purple.

Appeal from St. Clair.

ADAM L. MILLS et al.
vs
THE COUNTY OF ST. CLAIR.

And on this day came again the said parties, and the court having sufficiently advised and considered of the motion herein made, asking that the final order in this cause, entered at the June term, in the year of our Lord one thousand eight hundred and forty, so as to set forth the names of the parties to said suit at full length, do allow the same. It is therefore considered, that said order be so amended as to read as follows, to wit, Adam L. Mills, John H. Gay, Charles Mullikin, John O'Fallon, William C. Wiggins, Andrew Christy, Melanie Christy, Joseph A. Christy, Elizabeth Christy, Mary F. Christy, (which Melanie is the widow, and which Joseph A., Elizabeth and Mary F., are the only children and heirs of Samuel C. Christy, deceased;) said children being infants, and appearing by said Melanie their next friend;

Emily Pratte, widow of Bernard Pratte, deceased; Emilie, his daughter, wife of Ramsey Crooks; Ramsey Crooks, Bernard Pratte, son of said Bernard Pratte, deceased; Lewis Penguet and Therese, his wife—which Therese is also a daughter of said Bernard Pratte, deceased; Stephen T. Niedlet and Celeste, his wife, she being also a daughter of said Bernard Pratte, deceased; and Joseph Blains and Diane, his wife, which Diane, is a daughter of said Bernard [Pratte,] deceased; Lewis V. Bogy and Pelagie, his wife, who is also a daughter of Bernard Pratte, deceased; against William G. Brown, John D. Hughes, James Anderson, William Penn, Charles Sargent, and the said County of St. Clair. At this day came again the parties aforesaid, by their attornies aforesaid, and the court having diligently examined the records, and the proceedings aforesaid, and now being sufficiently advised of and concerning the premises, for that it appears to the court now here, that neither in the record and proceedings aforesaid, nor in the rendering of the judgment aforesaid, is there any thing vicious or defective, and that that record is no error. It is considered that the judgment aforesaid shall be affirmed in all things, and stand in full force and effect, notwithstanding the said matters and causes above assigned for error; and further, it is considered by the court now here, that the said defendants do recover against the said plaintiffs their costs in this behalf expended, and that they have execution therefor, and that this order stand and be considered as if the same had been entered as of the June term, in the year of our Lord one thousand eight hundred and forty.

And afterwards, to wit, on the thirteenth day of December, in the year of our Lord one thousand eight hundred and forty-five, of the December term of said supreme court, in the year of our Lord one thousand eight hundred and forty-five, an abstract was filed in the office of the clerk of the supreme court, in the above entitled cause, which said abstract is in the words and figures following, to wit:

Supreme Court, December term, 1845.

ADAM L. MILLS et al., appellants,
vs
THE COUNTY OF ST. CLAIR et al., appellees.

Abstract of case.

The appellants, complainants in the court below, filed their bill of complaint against the appellees, the defendants, for a perpetual injunction against the defendants, enjoining them, and all their confederates and agents, from further maintaining and carrying on the ferry which they had established, or any ferry from the lands of the complainants particularly described in their bill and for such other and further relief as their case might require, and as to the court might seem meet.

The complainants set forth, that from the earliest period in the settlement of the western part of Illinois there has existed a constant intercourse between the inhabitants of that county and the town of St.

Louis, in the present state of Missouri, which increased with the rapid increase of population in Illinois; and as St. Louis was the only point on the Mississippi river, so far as it was a boundary of Illinois, where there was any commerce of importance, the citizens of Illinois have felt considerable interest in maintaining the intercourse; that in the year 1819, and previous thereto, there was scarcely any navigation of the river by steam power, and the citizens of Illinois, in passing to St. Louis, could only journey by land to the river at a point opposite the town, and cross the river by an ordinary ferry, furnished only with common boats propelled by men with oars, so that when the river was more than usually high or affected by high winds, or when drift wood or ice, in large quantities, was floating on its surface, the passage became not only difficult, but often exceedingly dangerous; and thus vexatious and expensive delays were occasioned to those desiring to cross the stream. The people of Illinois felt that their own interest and convenience required that some expedient should be adopted by which the difficulties and inconveniences experienced in visiting St. Louis should be obviated, and they judged it necessary to afford such encouragement to individual enterprise as would induce the employment of capital in increasing the facilities of transportation required at this point; one Samuel Wiggins, believing he could derive advantage from the accommodation of the public, was willing to embark in the business of maintaining a ferry, which would render the transportation certain and secure. Under these circumstances, an act was passed by the people of the State of Illinois, represented in the general assembly, which was approved March 2d, 1819, whereby it was enacted, that said Samuel Wiggins, his heirs and assigns, were authorized to establish a ferry on the waters of the Mississippi, near the town of Illinois in this State, and to run the same from lands at said place that might belong to him; provided, that he should not use any boat or water craft except such as should be propelled by steam, horses, oxen, or other four-footed animals; and provided, that the said Samuel Wiggins, his heirs and assigns, should have said ferry in actual operation within eighteen months from and after the passage of said act. And by the 2nd sec. of that act, it was further enacted, that no persons except those who had ferries then established at that place, should establish any ferry of the description aforesaid, within one mile of the ferry established under that act; and if any person or persons should, contrary to the provisions of that act, run any boat or boats of the description aforesaid, he, she, or they should forfeit every such boat, with its furniture, &c., to said Samuel Wiggins, his heirs and assigns, which might be attached and recovered before any court in the State of competent jurisdiction.

By the 3d sec. of said act it was enacted, that it might be lawful for said Samuel Wiggins, his heirs and assigns, to demand and receive the same rates of ferriage as were of right demandable at the ferry established nearest to the ferry authorized to be established by that act; provided, that no more should be charged for a wagon, cart, or other carriage, if loaded, than could be charged if empty.

By the 4th and last sec. of the act it was enacted, that the ferry thereby established should be subject to the same taxes as were then or thereafter might be imposed on other ferries within said State, and under the same regulations and forfeitures; and that if the provisions of the 2nd section of that act should be made to appear to the general assembly to be injurious to the public good, that then, and in such case, the said section might be repealed.

Complainants further state, that said Samuel Wiggins, immediately after the passage of said act, commenced preparations for establishing the ferry under his contract with the State of Illinois, and on the 4th March, 1820, obtained a deed from James Piggot and Zaccheus Piggot, two of the heirs of James Piggot, deceased, for two undivided seventh parts of a certain tract of land of 100 acres on the Mississippi, near the town of Illinois, the title to which land was in the heirs of James Piggot, regularly derived from the Government of the United States.

The said Samuel Wiggins, having acquired an interest in said tract of land, proceeded immediately to establish the ferry across the Mississippi river, according to his contract with the State of Illinois, and to run his boats from the land granted and confirmed to the heirs of James Piggot, using in said ferry only boats propelled by the power of horses; and in less than 18 months from the 2d day of March, 1819, the said Samuel Wiggins had the said ferry in actual operation, and using boats which were propelled by horses, and he used at said ferry none other than boats thus propelled. Said Samuel Wiggins entered into the possession of the lands granted as aforesaid to the heirs of the said James Piggot, immediately after his purchase from two of the said heirs, and until the sale made by said Wiggins, as is hereinafter mentioned, he continued to possess the said land, and continued until said sale to maintain and keep his said ferry in full operation, increasing the means of transportation as the public wants required, and changing the boats employed from those propelled by horses to boats propelled by steam, so as to comply with the letter and spirit of the said act of the general assembly, and fully to discharge his duty under his contract with the State of Illinois.

The said Samuel Wiggins, on the 19th May, 1821, by deed of that date acquired from John McKnight and Thomas Brady, then being the owners of the interests of the other heirs of said James Piggot, deceased, in the tract of land above described, all the right and title of those other heirs in and to said land, as the same had been confirmed to them; a copy of which deed is exhibited. Said McKnight and Brady acquired their title to said land from Joseph Piggot and Hannah, his wife, Daniel Quick and Fanny, his wife, William Patterson and Asenath, his wife, and Newton Piggot, by deed duly executed January 4th, 1815, a copy of which was exhibited; and Joseph Piggot, Fanny Quick, Asenath Patterson, and Newton Piggot, who made their deed to said McKnight and Brady, and the said James Piggot and Zaccheus Piggot, who made their deed to Samuel Wiggins, were the heirs of the said James Piggot, deceased, to whom said tract of land had been confirmed and granted by the United States.

On the 18th day of January, 1813, Michael Jones, then register of the land office for the district of Kaskaskia, transmitted to the Secretary of the Treasury of the United States list of claims to land within said district, with a recommendation that the same should be confirmed by the Government of the United States; and thereupon Congress passed an act, approved April 16th, 1814, confirming to the claimants the lands in said list specified, and among the rest the claim under Pierre Codaire, or his legal representatives, as appears *to* reference to said act of Congress and to the certified extract from the list of claims reported by Michael Jones, and portions of his letter accompanying the same, were exhibited as part of complainants' bill. Before the said confirmation said Pierre Codaire had died, leaving as his only heir his son Joseph Codaire, who by his deed of the 17th April, 1809, conveyed to Nicholas Jarrot all his right to the tract of land which had been claimed and cultivated by his father, the said Pierre Codaire, and said deed is exhibited as part of the bill of complainants; which last mentioned tract of land contains 400 acres, and lies on the Mississippi river, opposite to the town of St. Louis, and near to the town of Illinois, and has been regularly surveyed under the authority of the United States, and the title thereto was, by the confirmation by the said act of Congress, and by the deed of the said Joseph Codaire, *was* vested in the said Nicholas Jarrot in fee simple.

The commissioners in the Kaskaskia land district, under the authority conferred by the act of Congress of the 26th March, 1804, entitled "an act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes," reported their decisions to the Secretary of the Treasury on the 31st day of December, 1809, and in their report was embraced a claim to 100 acres, claimed by Nicholas Jarrot under Jean Dumochell, which they reported as affirmed by them, the same being entered by them in their report of claims within the district of Kaskaskia, founded on the act of Congress granting a donation of 100 acres of land to each militia man enrolled and doing duty in the Illinois, on the 1st day of August, 1790. In their report the commissioners described the said tract of land of 100 acres, as surveyed in virtue of an order from the Government, on the banks of the Mississippi and the Cahokia creek, which tract is particularly described in said bill of complaint; all which appears by reference to the 2d vol. of the American State papers, selected and edited, under the authority of the United States, by Walter Lowrie, Secretary of the Senate, containing documents, legislative and executive, of the Congress of the United States, in relation to the public lands; which said decision of the said commissioners was duly confirmed, by the Congress of the United States, by act of 1st May, 1810, whereby the title to the said 100 acres of land was vested in the said Nicholas Jarrot. The said claim of the said Nicholas Jarrot, so confirmed as aforesaid, was so surveyed as to be included within the survey of the said tract of 400 acres, confirmed under the said Codaire as before described, all which appears by official survey from the office of the surveyor general, filed with complainants' bill

and made a part thereof, and which said tract of 100 acres joins the tract of land held by the said Wiggins, under the heirs of the said James Piggot as before mentioned, and is near to the town of Illinois.

About the month of December, 1820, said Nicholas Jarrot departed this life, having previously made and published his last will and testament in due form of law, which [has] been duly admitted to probate in said county of St. Clair, and by said will empowered his widow and executrix, Julie Jarrot, to sell and dispose of such parts of his real estate as she might think proper, in order that she might live in the most easy and independant manner, and devised all his real estate for life; which power and contemplated provision for his widow was over and above, and independent of, her right to her own portion of the estate, under the community established by the marriage contract between the said Nicholas Jarrot and his said wife; a copy of which will is exhibited as part of the bill.

The said Julia Jarrot, on the 13th July, 1822, by her deed of that date, conveyed to the said Samuel Wiggins, in fee simple, the said tract of 400 acres of land, so confirmed under the claim of the said Pierre Codaire, as aforesaid, the title to which was in the said Nicholas Jarrot at the time of his death; and also all the right and title which said Nicholas Jarrot might have had, at the time of his death, to any piece of land lying and being on the said tract of 400 acres; which deed, duly acknowledged and recorded, is exhibited as part of the bill.

The said Samuel Wiggins, from the time of the conveyance to him by the said Julie Jarrot, as before mentioned, until the time of the sale and conveyance by him as is hereinafter stated, continued in possession of the said tract of land, so acquired by him, and held under the said Codaire and the said Jarrot, embracing the said tract of 100 acres, confirmed to the said Jarrot under said Jean Dumochell.

The complainants state that the bank of the Mississippi river, opposite the town of St. Louis, is an alluvial formation, continually falling into the river, as the action of the water wears away the sand, and there is also, from the character of the stream and of the shores of the river, a very frequent shifting of the current, sometimes forming bars where but a short time before there was deep water, and again sweeping away the sand bars, and in their place establishing for a short time the main current of the river. From this liability to frequent changes in the current of the stream and in its banks, it was necessary for the said Wiggins, in order to fulfil his contract with the State of Illinois, to acquire the title to a large space of land on the bank of the river, in order that he might change the place of landing, as the changes of the river and its banks might require; this necessity was enhanced by the fact that there existed an island in the river opposite to the upper end of the town of St. Louis, which was regularly increasing and extending down the stream, so as to interfere with the direct crossing of the river.

The complainants claim that the said Samuel Wiggins, his heirs and assigns, were entitled, under the act of the general assembly of the State of Illinois before mentioned, approved 2d March, 1819, to the per-

petual franchise of maintaining a ferry across the Mississippi river, from any point near the town of Illinois, from any land that might at any time belong to him or them, so that the conditions of the law were complied with; yet the said Samuel Wiggins, in order to avoid any difficulties or questions that might arise, applied to the general assembly of the State of Illinois; on the 6th day of February, 1821, an act was passed by said general assembly, by which, after reciting that the said Samuel Wiggins, his heirs and assigns, were authorized to establish a ferry on the waters of the Mississippi river, near the town of Illinois, in the State of Illinois, and that a sand bar had been formed since that time opposite said ferry, it was enacted that the said Samuel Wiggins was thereby authorized to remove said ferry on any land that might belong to him on the Mississippi river, and that his heirs and assigns were thereby authorized to remove said ferry to any land that might belong to them on the said Mississippi river, under the same privileges that were presented by the act entitled "an act to authorize Samuel Wiggins to establish a ferry upon the waters of the Mississippi; approved March 2d, 1819, and the complainants present, as part of their bill, the act of the general assembly of the State of Illinois, entitled "an act to authorize Samuel Wiggins to make a turnpike road, and for other purposes."

They state that the said lands acquired by Samuel Wiggins from the said Julia Jarrot, widow, devise and executrix of the said Nicholas Jarrot, deceased, was necessary to the said Samuel Wiggins, and to his heirs and assigns, as owners of the ferry franchise granted by the State of Illinois, as aforesaid, in order to the secure and convenient conduct of the ferry, as the changes of the river might require changes in the places of landing.

The said Samuel Wiggins, on the 1st day of August, 1831, by deed of that date, conveyed all the lands before mentioned as having been acquired under the heirs of James Piggot, deceased, and under the said Codaire, and said Jarrot, to John O'Fallon, Adam L. Mills, Bernard Pratte, now deceased, William C. Wiggins, Samuel C. Christy, now deceased, and Charles Mullikin, together with the ferry franchise as granted to him by the Legislature of the State of Illinois, as appears by the deed, of which a copy is herewith exhibited.

The said John O'Fallon afterwards, by his deed dated February 1st, 1838, conveyed the one half of the interest, acquired by him under the deed of the said Samuel Wiggins, to John H. Gay, in fee simple as appears by the deed of the said O'Fallon, and his wife, to said Gay, a copy whereof is exhibited. And the said John O'Fallon, by his deed of the 18th of December, 1843, conveyed to the said complainant, Andrew Christy, all his remaining interest in said premises, as acquired from said Samuel Wiggins, as appears by the deed of said O'Fallon, exhibited. The said Adam L. Mills, by his deed of the 13th day of October, 1840, conveyed to said Andrew Christy, another of the complainants, in fee simple, one half of the interest and title acquired by him,

said Mills, by the said deed from said Wiggins, in the said lands and ferry franchise, which deed from said Mills to said Christy is exhibited.

The said John O'Fallon, on the 12th of January, 1832, became the purchaser of the tract of land above described as claim 99, survey 579, under and by virtue of the laws of the State of Illinois, for the taxes for the year 1831, with the interest and costs chargeable on said tract of land, and the same was, in pursuance of the laws of Illinois, duly conveyed to said O'Fallon, by the auditor of public accounts of that State, by deed dated 10th February, 1835, which purchase from the State of Illinois, by said O'Fallon, was made by him in his own name for the use of all the owners of said land and ferry franchise, and their assigns and representatives, and the said deed was so held by him in trust for the use aforesaid, until the same was conveyed by the said O'Fallon, as herein stated, which deed is herewith exhibited as part of said bill.

The said John O'Fallon, on the 18th March, 1844, by deed of that date conveyed, among other things, all the right and title acquired by him in the said tract of land, under his said purchase for taxes as above stated, to these complainants, as appears by the deed therewith exhibited as part of complainants' bill.

After the purchase from said Samuel Wiggins, by the said John O'Fallon, Adam L. Mills, William C. Wiggins, Charles Mullikin, Bernard Pratte, and Samuel C. Christy, said Bernard Pratte and Samuel C. Christy departed this life; the said Bernard Pratte leaving the complainant Emily Pratte, his widow, and the complainants Emily Crooks, Bernard Pratte, Therese Penguet, Celeste Niedlet, Pelagie Bogy, and Diane Blaine, his children and only heirs; and the said Samuel C. Christy, leaving at his death the complainants, Melanie Christy, his widow, and Joseph A. Christy, Elizabeth Christy, and Mary F. Christy, his children and only heirs; which Joseph A. Christy, since the death of the said Samuel C. Christy, has departed this life an infant, and without issue.

By means of which said several conveyances and descents, the said complainants have acquired all the right and title which the said Samuel Wiggins had in and to the land before described, and the ferry franchise granted to him by the State of Illinois as aforesaid, and have furnished suitable means of transportation at said ferry, and proper accommodation for the speedy and secure passage of all persons and property offered to be crossed over said river, using only such boats as are required by said acts of assembly to be used; and the complainants say, that in full faith and reliance upon the inviolability of the contract between the State of Illinois and the said Samuel Wiggins, they have paid and invested a large sum of money in the purchase from the said Wiggins, of his right to the said land and the ferry privilege, to which he was entitled from the grant to the said Wiggins, his heirs and assigns, by the State of Illinois; but now, contrary to the wishes and against the consent of the complainants, in violation of their rights and of the solemn contract of the State of Illinois, and in violation of the 1st clause of the 10th section of the 1st article of the Constitution of the

United States, which prohibits the State from passing any law impairing the obligation of contracts, an act was passed on the 2d day of March, in the year 1839, by the general assembly of the State of Illinois, entitled "an act to authorize St. Clair county to establish a ferry across the Mississippi river, whereby William G. Brown, John D. Hughes, James Anderson, William Penn, and Charles Sargent, of St. Clair county, were appointed commissioners, and were required to examine the ground, and locate a road and ferry landing, between Cahokio creek an the Mississippi river, opposite St. Louis; and it was thereby further enacted, that the said road and ferry landing should be located 300 feet wide, on the most eligible ground for said purpose; and the said road and ferry landing, when so located, and the report of said commissioners filed in the office of the county commissioners' court of said county of St. Clair, should be and remain a public highway forever; and that the county commissioners' court of said county might cause said land, on which said road and ferry landing should have been located, to be condemned, and pay the legal owners of said land the damages sustained by said owners; and if said land should be condemned, and said damages paid out of the funds of the county, the said county commissioners' court should have power, by their agents or otherwise, to enter upon said land so condemned, and establish a ferry across the Mississippi river; and that said county commissioners' court might either carry on said ferry for the county itself, or it might lease the same for any term not exceeding 5 years, at any one time, to any persons; and it was further enacted by said act, that for the purpose of compensating the legal owners for the land thus appropriated, it should be the duty of the commissioners' court to cause the sheriff of St. Clair county to summon 12 men, who should assess the damages which such owners of the land might sustain by reason of the location of said road and ferry landing.

The said commissioners, William G. Brown, John D. Hughes, James Anderson, William Penn, and Charles Sargent, have under color of the last mentioned act of assembly procured and laid out, and located said road 300 feet wide across said tract of land belonging to complainants, which is near to the town of Illinois, and have made their report as required by said act of assembly; and, as complainants have been informed, have been had for the condemnation of the said land under said act of assembly, by which the damages were assessed at $600, and verdict for that amount was entered at the April term of the circuit court for Jackson county, Illinois, in the year 1840; but no payment of said damages has ever been made, and no money was ever tendered until the 19th of July, A. D. 1842, at which time the said verdict, including principal and interest, amounted to $680, or thereabouts; and complainants admit, that at the time last specified the sum of $600 (being part of the said $680) was tendered to them, and they refused to accept and receive the sum thus tendered as a compensation for their property thus attempted to be taken from them.

The value of the said 300 feet of land, for the purposes of a ferry

landing and a ferry franchise, was not taken into consideration by the court and jury in the said assessment of damages; but, on the contrary, the said court expressly directed and instructed the jury to assess the damages which the complainants would sustain by reason of said road being located on the said land, without any reference to the ferry landing, ferry franchise, and ferry privileges, connected with the said road, and appertaining to said road; and the $600 so assessed was the amount of damages which, in the opinion of the jury, these complainants would sustain by virtue of the location of said road only, after excluding therefrom the injury to complainants by impairing their ferry franchise, and depriving them of the best part of their ferry landing.

The said 300 feet include a wider space and more land than is necessary or convenient for a road, and but a small portion of it has been used and appropriated by the county of St. Clair to that purpose, leaving a strip on either side to be used by the said county of St. Clair, and its lessees, as private property; and that portion of the 300 feet, which is not included in the said road, and which is now used for private purposes, or is left to be thus used, will yield an annual ground rent larger than the whole amount of damages assessed as aforesaid for the whole of said 300 feet.

The said county of St. Clair has through its agent entered upon and taken possession of the whole of said 300 feet of land, and has leased the same, together with said road and ferry landing, and the ferry established under said last mentioned act of the general assembly of Illinois, to James Harrison, for the term of 5 years; a copy of which lease is exhibited as part of the bill. And said Harrison, as such lessee, has entered upon said 300 feet of ground, and is using the same as his private property, and is actually engaged in running a ferry therefrom, across the Mississippi river to the city of St. Louis, and has thus not only established a ferry rivalling and injuring the ferry of complainants, but is using to their injury what they consider to be a part of their ferry landing, and has deprived them of the use and occupancy of that very portion of their said tract of land which is necessary to the full enjoyment of their ferry franchise, and the full performance of their contract with the State of Illinois.

The said 300 feet of ground (upon which said road and ferry landing have been located by the county of St. Clair) is part of the said tract of land purchased by the said Samuel Wiggins, and appropriated by him to the purposes of a ferry landing as aforesaid, in pursuance of the said two acts of the Illinois Legislature, approved March 2d, 1819, and February 26th, 1821; and now owned by complainants as the assigns of the said Samuel Wiggins, and as heirs, assigns, and representatives, of certain of his assigns. The complainants claim, that by virtue of these two acts of the Legislature of Illinois, and of the purchase of the said tracts of land by the said Samuel Wiggins, and the application of the same to the purposes of a ferry landing in accordance with those acts, the whole of the said tract of land became the ferry landing of the complainants, appropriated to them by the Legislature of Illinois for that purpose.

The complainants further state, that in consequence of a sand bar (or island) having formed, opposite to their said ferry landing, and having enlarged and varied by the floods in the river, and of the obstructions on the Illinois shore, occasioned by the action of the water and the formation of sand bars, they have been compelled to remove their said ferry landing from time to time, and from place to place, on said tract of land, and were at times in the habit of landing their ferry boats above, below, and in the immediate vicinity of the said 300 feet of ground now used by the said lessee of St. Clair county as a road and ferry landing; and that at different seasons of the year, and at various stages of the water in the river, these complainants, on account of the causes and obstructions aforesaid, are compelled to land their ferry boats at different places on their said tract of land, and to change the same as the water in the river may rise or fall; for instance, in high water, they are required to land at one place; in low water at another; and so varying their points of landing, as the water in the river may destroy it at one point, and afford a safe and convenient landing at another, nearly from one end of said tract of land to the other.

During the recent floods, the action of the waters has produced such farther changes in the banks, sand bars, and channels of said river, as to render said 300 feet of ground, now used by said lessee of St. Clair county as aforesaid, not only the most convenient point for a ferry landing, but the only point on said tract of land at which boats can be safely landed, where a road approaches the river, or the travel can conveniently reach it, without running up the river, at great trouble and expense, from the lower point of the island below which they cross, a distance of about 600 yards; making the trip about 1200 yards more than complainants would be required to run, if they were allowed to use the said 300 feet of ground which belongs to them as a ferry landing.

During the winter season, while the floating ice is running in the river, the complainants' steam ferry boats, which they have purchased at a great expenditure of money, and are now using for the transportation [of] passengers and property at their said ferry, cannot run up stream against the rapid current and floating ice, and hence they may be compelled to stop their ferry, violate their contract with the State of Illinois, and forfeit their ferry franchise, unless they are permitted to use the said 300 feet of their own land, of which the said lessee of the County of St. Clair, has deprived them of the possession and use as aforesaid.

The complainants invoke the Constitution of the United States, and particularly the 1st clause of the 10th section of the 1st article thereof, as their protection against the unjust legislation which has been adopted by the general assembly of the State of Illinois, whereby the solemn contract of the State, contained in the grant to Samuel Wiggins, his heirs and assigns, as expressed in the act of assembly of the 2d March, 1819, and the act of the 6th February, 1821, before mentioned, has been most materially impaired, and against the proceedings of the commissioners appointed to lay out said road, and of the county commis-

sioners' court of St. Clair county, in pretending to carry into effect the unconstitutional legislation by taking a part of the very landing or terminus of the ferry of complainants to establish thereon another ferry. Complainants also invoke the constitution of Illinois as their protection against the legislation of the State, and the proceedings under color thereof, whereby the property of complainants has been attempted to be taken for a *private* and not a *public* use, and for the very use for which complainants were applying it, and by which no compensation is provided for them for the damages done to them by the use to which said property is to be applied.

The complainants exhibit, as part of their bill, a plot of a survey made by the surveyor of the city of St. Louis, with the view to improve the harbor of St. Louis, and which exhibits the shore of the river Mississippi as it existed when the public surveys were made of the lands claimed by them under Jarrot, and under the heirs of Piggot, above mentioned, whereby it will appear, that survey No. 624, which is the survey of the tract under the heirs of Piggot, more than the one half, nearly two thirds of the whole tract had been carried off by the river, when this survey by the surveyor of the city was made; the quantity carried off being greatly increased by the freshet of this present year; and it will further appear, that survey No. 579, which is the survey under Dumochell, about one third part of the tract has been carried off by the river. Said plot will further shew, that the line which represented the Illinois shore of the river at the period of those surveys, is now in some places near the western shore of that channel of the river, which is on the east of Bloody Island. The size and position of Bloody Island, as it existed at the time of the original surveys in the year 1818, is represented on said plot by the red line drawn on the figure of said Island as it now exists, with the increase which it has gained at the lower extremity is also shown on said plot, whereby it will appear that the said Island has nearly doubled its length since it was originally surveyed. The said plot also shows, on the Illinois shore, the points on which the road has at different periods reached the river, and where at different times the landing of the ferry of said Wiggins, and of the complainants, has been; although the points of said landing have been long since far in the river, the roads leading to them show their relative positions and the distances from each other.

The said plot will shew the changes in the landings of the ferry of the complainants, which have become necessary by the changes in the channel of the river, and by the increase of Bloody Island; and it will appear, that it has already been necessary to remove the place of landing about one half mile down the river, from the point at which the ferry was formerly established. The said plot will further shew the course which the boats of these complainants are now compelled to take to cross the river, in order to pass around the lower point on the sand bar, which continues to increase at the lower point of the Island. The said plot also correctly represents the relative position of the landing now used by complainants, and that used by the said James Harrison

for the ferry which he is now conducting; and it will appear to the court, that the very point which he now occupies for the landing of his boats may at any time become absolutely necessary to these complainants for the proper management of their ferry. The said plat will also shew to the court, on the eastern shore of the river, the point on which the landing of the ferry under said Samuel Wiggins was formerly established, being at Oak street, now Morgan street, in the city of St. Louis, which is directly opposite to the highest landing on the Illinois shore; and the said plat will shew how the increase of the length of the Island has compelled a change in the ferry landing on the Missouri shore; which said plat has been made from actual and accurate surveys, and is exhibited as part of the bill.

The said James Harrison now occupies and uses property of these complainants, which has been attempted to be taken from them by unconstitutional legislation, and is employing it to injure and further to oppress these complainants, and he is so employing the said property under the County of St. Clair.

The bill of the complainants is verified by oath, and on the order of one of the justices of the supreme court a writ of injunction was issued, in accordance with the prayer of the bill against the defendants, their agents, &c.

The defendants demurred generally to the bill of complainants, and the complainants joined in the demurrer; upon argument whereof, and the matters arising thereon, the circuit court sustained the demurrer, and decreed the dismissal of the complainants' bill, and dissolved the injunction granted thereon, and the recovery by the defendants of their costs and charges against the complainants, who have appealed to this court, in which they assign, for error in the proceedings in the circuit—

The rendering in that court of a decree in favor of the appellees, when, by the laws of the land, the same should have been rendered in favor of the appellants.

That said court decreed a dissolution of the injunction which had been issued in the cause, when, by the laws of the land, the said injunction should have been made perpetual.

That the circuit court dismissed the bill of the said appellants, when, by the law of the land, the appellants were entitled to the relief prayed in the said bill.

In this court the appellants make the following points, to wit:

1. That the establishment and regulation of ferries across navigable streams is a subject within the control of the government, and not matter of private right, and that the government may exercise its powers by contracting with individuals. Willes' Reports, 512; 3 Salk. 198; 6 Bam. and Cress. 703; 5 do. 875; 5 John. Ch. Rep. 101; 4 Burr, 2161; 4 Dum. and East. 439, 668; 1 Con. R. 382; 17 J. Rep. 195; 11 Peters, 569. Act 2d March, 1839; 7 Peck. 344.

2. That the acts of the general assembly of the 2d March, 1819, and of 6th February, 1821, are contracts of the State of Illinois with Samuel Wiggins, his heirs and assigns, which are protected from legis-

lative invasion by the Constitution of the United States. See Fletcher vs. Peck, 6 Cranch, 87; 2 Cond. R. 308. Providence Bank vs. Billings & others, 4 Peters, 514; New Jersey vs. Wilson, 7 Cranch, 164; 2 Cond. Rep. 457; Tenett vs. Taylor, 9 Cranch, 43; Dartmouth College vs. Woodward, 4 Wheat. 518.

3. That it is an unconstitutional invasion of the contract for the State to take from the complainants the property which is necessary to their enjoyment of their franchise, 11 Peters, 549, 566.

4. That the act which authorizes the taking of the complainants' property, and giving it to others to be used for the same purpose for which complainants are employing, is unconstitutional. See Constitution of Illinois, 11 Peters, 642, and 3 Dallas, 386.

5. That the act of 2d March, 1839, is against the constitution of Illinois, in not providing a compensation for the injury done to complainants by taking the land for the purpose of establishing a ferry, and *others* impairing the value of the complainants' franchise, 11 Peters, 420; 3 Kent's Com. (title franchise) 366.

6. That the act of 2d March, 1839, has not been complied with previous to the establishment of the ferry, and therefore the parties could not, under that law, establish or maintain such ferry.

Upon which said abstract is the following endorsement, to wit:

Filed 13th Dec., 1845.

E. PECK, *C. S. C.*

And afterwards, to wit, on Thursday, the eighth day of January, in the year of our Lord one thousand eight hundred and forty-six, of the December term of said supreme court in the year of our Lord one thousand eight hundred and forty-five, the following order was entered of record on the records of said court, to wit:

Present the honorable William Wilson, chief justice,
" " Thomas C. Browne,
" " Samuel D. Lockwood,
" " Walter B. Scates,
" " Samuel H. Treat,
" " Richard M. Young,
" " John D. Caton,
" " Gustavus P. Koerner,
" " Norman H. Purple.

ADAM L. MILLS et al.
vs
THE COUNTY OF ST. CLAIR et al.

On this day came again the said parties, and the errors herein being joined, this cause was argued to the court, by Lamborn, on the part of the plaintiffs.

And afterwards, to wit, on the afternoon of Thursday, the eighth day of January, in the year of our Lord one thousand eight hundred and

forty-six, of the December term of said supreme court, in the year of our Lord one thousand eight hundred and forty-five, the following order was entered of record on the records of said court:

Present as in the forenoon.

ADAM L. MILLS et al.
vs.
THE COUNTY OF ST. CLAIR et al.

The argument of this cause was continued by Lamborn for the plaintiffs, and by Gillespie for the defendants.

And afterwards, to wit, on Friday, the ninth day of January, in the year of our Lord one thousand eight hundred and forty-six, of the December term of said supreme court, in the year of our Lord one thousand eight hundred and forty-five, the following order was entered of record on the records of said court:

Present the honorable William Wilson, chief justice,
" " Thomas C. Browne,
" " Samuel D. Lockwood,
" " Walter B. Scates,
" " Samuel H. Treat,
" " Richard M. Young,
" " John D. Caton,
" " Gustavus P. Koerner,
" " Norman H. Purple.

ADAM L. MILLS et al.
vs.
THE COUNTY OF ST. CLAIR et al.

The argument of this cause was continued by Gillespie and Trumbull, on the part of the defendants.

And afterwards, to wit, on the afternoon of Friday, the ninth day of January, in the year of our Lord one thousand eight hundred and forty-six, of the December term, in the year of our Lord one thousand eight hundred and forty-five, the following order was entered of record on the records of said court:

Present as in the forenoon.

ADAM L. MILLS et al.
vs.
THE COUNTY OF ST. CLAIR et al.

The argument of this cause was continued by Trumbull, on the part of the defendants.

And afterwards, to wit, on Saturday, the tenth day of January, in the year of our Lord one thousand eight hundred and forty-six, of the December term of said court, in the year of our Lord one thousand eight hundred and forty-five, the following order was entered of record on the records of said court:

Present the honorable Thomas C. Browne,
" " Samuel D. Lockwood,
" " Walter B. Scates,
" " Samuel H. Treat,
" " Richard M. Young,
" " John D. Caton,
" " Gustavus P. Koerner,
" " Norman H. Purple.

ADAM L. MILLS et al.
vs.
THE COUNTY OF ST. CLAIR et al.

The argument of this cause was continued by Logan, on the part of the plaintiffs.

And afterwards, to wit, on the afternoon of Saturday, the tenth day of J nuary, in the year of our Lord one thousand eight hundred and forty-six, of the December term, in the year of our Lord one thousand eight hundred and forty-five, the following order was entered of record on the records of said court:

Present as in the forenoon.

ADAM L. MILLS et al.
vs.
THE COUNTY OF ST. CLAIR et al.

The argument of this cause was concluded by Logan, for the plaintiffs, and the cause was submitted to the court; and the court not being sufficiently advised, took time to consider.

And afterwards, to wit, on Tuesday, the twenty-seventh day of January, in the year of our Lord one thousand eight hundred and forty-six, of the December term of said supreme court, in the year of our Lord one thousand eight hundred and forty-five, the following orders were entered of record on the records of said court:

Present the honorable Thomas C. Browne,
" " Samuel D. Lockwood,
" " Walter B. Scates,
" " Samuel H. Treat,
" " Richard M. Young,
" " John D. Caton,
" " Gustavus P. Koerner,
" " Norman H. Purple.

ADAM L. MILLS, John H. Gay, Charles Mullikin, John O'Fallon, William C. Wiggins, Andrew Christy, Elizabeth Christy, Mary F. Christy, Melanie Christy, which Melanie is the widow, and which said Elizabeth Christy and Mary F. Christy are the only children and heirs at law of Samuel C. Christy, deceased—said children being infants, and appearing by said Melanie, their next friend; Emily Pratte, widow of Bernard Pratte, Lewis Penguet and Therese, his wife, Stephen F. Niedlet and Celeste, his wife, Louis V. Bogy and Pelagie, his wife, Joseph Blaine and Aimi, his wife—which said Emily Crooks, Bernard Pratte, Therese Penguet, Celeste Niedlet, Pelagie Bogy, and Aimi Diane Blaine, are children and only heirs at law of Bernard Pratte, deceased,

vs.

THE COUNTY OF ST. CLAIR AND JAMES HARRISON

Appeal from St. Clair.

On this day came again the said parties, and the court having diligently examined and inspected, as well the record and proceedings aforesaid, as the matters and things therein assigned for error, and being now sufficiently advised of and concerning the premises, for that it appears to the court now here, that neither in the record and proceedings aforesaid, nor in the rendition of the decree aforesaid, is there any thing erroneous, vicious, or defective, and that that record is no error. Therefore, it is considered by the court, that the decree aforesaid be affirmed in all things, and stand in full force and effect, notwithstanding the said matters and things therein assigned for error. And it is further considered by the court, that the said appellees recover of and from the said appellants their costs by them in this behalf expended, and that they have execution therefor.

Opinion of the court by Mr. Justice Purple.

On the 8th day of March, A. D. 1845, the appellants, complainants in the court below, filed their complaint against the appellees, the defendants, for a perpetual injunction against the defendants, enjoining them, and all their confederates and agents, from further maintaining and carrying on the ferry which they had established, or any ferry from the lands of the complainants, particularly described in their bill, and for such other and further relief as their case might require, and as to the court might seem meet.

The complainants set forth, that from the earliest period in the settlement of the western part of Illinois there has existed a constant intercourse between the inhabitants of that county and the town of St. Louis, in the present state of Missouri, which increased with the rapid increase of population in Illinois; and as St. Louis was the only point

on the Mississippi river, so far as it was a boundary of Illinois, where there was any commerce of importance, the citizens of Illinois have felt considerable interest in maintaining the intercourse; that in the year 1819, and previous thereto, there was scarcely any navigation of the river by steam power, and the citizens of Illinois, in passing to St. Louis, could only journey by land to the river at a point opposite the town, and cross the river by an ordinary ferry, furnished only with common boats propelled by men with oars, so that when the river was more than usually high or affected by high winds, or when drift wood or ice, in large quantities, was floating on its surface, the passage became not only difficult, but often exceedingly dangerous; and thus vexatious and expensive delays were occasioned to those desiring to cross the stream. The people of Illinois felt that their own interest and convenience required that some expedient should be adopted by which the difficulties and inconveniences experienced in visiting St. Louis should be obviated, and they judged it necessary to afford such encouragement to individual enterprise as would induce the employment of capital in increasing the facilities of transportation required at this point; one Samuel Wiggins, believing he could derive advantage from the accommodation of the public, was willing to embark in the business of maintaining a ferry, which would render the transportation certain and secure. Under these circumstances, an act was passed by the people of the State of Illinois, represented in the general assembly, which was approved March 2d, 1819, whereby it was enacted, that said Samuel Wiggins, his heirs and assigns, were authorized to establish a ferry on the waters of the Mississippi, near the town of Illinois in this State, and to run the same from lands at said place that might belong to him; provided, that he should not use any boat or water craft except such as should be propelled by steam, horses, oxen, or other four-footed animals; and provided, that the said Samuel Wiggins, his heirs and assigns, should have said ferry in actual operation within eighteen months from and after the passage of said act. And by the 2nd section of that act, it was further enacted, that no persons except those who had ferries then established at that place, should establish a ferry of the description aforesaid, within one mile of the ferry established under that act; and if any person or persons should, contrary to the provisions of that act, run any boat or boats of the description aforesaid, he, she, or they should forfeit every such boat, with its furniture, &c., to said Samuel Wiggins, his heirs and assigns, which might be attached and recovered before any court in the State of competent jurisdiction.

By the 3d section of said act it was enacted, that it might be lawful for said Samuel Wiggins, his heirs and assigns, to demand and receive the same rates of ferriage as were then of right demandable at the ferry established nearest to the ferry authorized to be established by that act; provided, that no more should be charged for a wagon, cart, or other carriage, if loaded, than could be charged if empty.

By the 4th and last section of the act it was enacted, that the ferry thereby established should be subject to the same taxes as were then or

thereafter might be imposed on other ferries within said State, and under the same regulations and forfeitures; and that if provisions of the 2nd section of that act should be made to appear to the general assembly to be injurious to the public good, that then, and in such case, the said section might be repealed.

Complainants further state, that said Samuel Wiggins, immediately after the passage of said act, commenced preparations for establishing the ferry under his contract with the State of Illinois, and on the 4th March, 1820, obtained a deed from James Piggot and Zaccheus Piggot, two of the heirs of James Piggot, deceased, for two undivided seventh parts of a certain tract of land of 100 acres on the Mississippi, near the town of Illinois, the title to which land was in the heirs of James Piggot, regularly derived from the Government of the United States.

The said Samuel Wiggins, having acquired an interest in said tract of land, proceeded immediately to establish the ferry across the Mississippi river, according to his contract with the State of Illinois, and to run his boats from the land granted and confirmed to the heirs of James Piggot, using in said ferry only boats propelled by the power of horses; and in less than 18 months from the 2d day of March, 1819, the said Samuel Wiggins had the said ferry in actual operation, and using boats which were propelled by horses, and he used at said ferry none other than boats thus propelled. Said Samuel Wiggins entered into the possession of the lands granted as aforesaid to the heirs of the said James Piggot, immediately after his purchase from two of the said heirs, and until the sale made by the said Wiggins, as is hereafter mentioned; he continued to possess the said land, and continued until said sale to maintain and keep his said ferry in full operation, increasing the means of transportation as the public wants required, and changing the boats employed from those propelled by horses to boats propelled by steam, so as to comply with the letter and spirit of the said act of the general assembly, and fully to discharge his duty under his contract with the State of Illinois.

The said Samuel Wiggins, on the 19th May, 1821, by deed of that date acquired from John McKnight and Thomas Brady, they being the owners of the interests of the other heirs of James Piggot, deceased, in the tract of land above described, all the right and title of those other heirs in and to said land, as the same had been confirmed to them; a copy of which deed is exhibited. Said McKnight and Brady acquired their title to said land from Joseph Piggot and Hannah, his wife, Daniel Quick and Fanny, his wife, William Patterson and Asenath, his wife, and Newton Piggot, by deed duly executed January 4th, 1815, a copy of which was exhibited; and Joseph Piggot, Fanny Quick, Asenath Patterson, and Newton Piggot, who made their deed to said McKnight and Brady, and the said James Piggot and Zaccheus Piggot, who made their deed to Samuel Wiggins, were the heirs of the said James Piggot, deceased, to whom said tract of land had been confirmed and granted by the United States.

On the 18th day of January, 1813, Michael Jones, then register of

the land office for the district of Kaskaskia, transmitted to the Secretary of the Treasury of the United States a list of claims to lands within said district, with a recommendation that the same should be confirmed by the Government of the United States; and thereupon Congress passed an act, approved April 16th, 1814, confirming to the claimants the lands in said list specified, and among the rest the claim under Pierre Codaire, or his legal representatives, as appears by reference to said act of Congress and to the certified extract from the list of claims reported by Michael Jones, and portions of his letter accompanying the same, were exhibited as part of complainants' bill. Before the said confirmation said Pierre Codaire had died, leaving as his only heir his son Joseph Codaire, who by his deed of the 17th April, 1809, conveyed to Nicholas Jarrot all his right to the tract of land which had been claimed and cultivated by his father, the said Pierre Codaire, and said deed is exhibited as part of the bill of complainants; which last mentioned tract of land contains 400 acres, and lies on the Mississippi river, opposite to the town of St. Louis, and near to the town of Illinois, and has been regularly surveyed under the authority of the United States, and the title thereto was, by the confirmation of said act of Congress, and by the deed of the said Joseph Codaire, *was* vested in the said Nicholas Jarrot in fee simple.

The commissioners in the Kaskaskia land district, under the authority conferred by the act of Congress of the 26th March, 1804, entitled "an act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes," reported their decisions to the Secretary of the Treasury on the 31st day of December, 1809, and in their report was embraced a claim to 100 acres, claimed by Nicholas Jarrot under Jean Dumochell, which they reported as affirmed by them, the same being entered by them in their report of claims within the district of Kaskaskia, founded on the act of Congress granting a donation of 100 acres of land to each militia man enrolled and doing duty in the Illinois, on the 1st day of August, 1790. In their report the commissioners described the said tract of land of 100 acres, as surveyed in virtue of an order from the Government, on the banks of the Mississippi and Cahokia creek, which tract is particularly described in said bill of complaint; all which appears by reference to the 2d volume of the American State papers, selected and edited, under the authority of the United States, by Walter Lowrie, Secretary of the Senate, containing documents, legislative and executive, of the Congress of the United States, in relation to the public lands; which said decision of the said commissioners was duly confirmed, by the Congress of the United States, by act of the 1st May, 1810, whereby the title to the said 100 acres of land was vested in the said Nicholas Jarrot. The said claim of the said Nicholas Jarrot, so confirmed as aforesaid, was so surveyed as to be included within the survey of the said tract of 400 acres, confirmed under the said Codaire as before described; all which appears by official survey from the office of the surveyor general, filed with complainants' bill and made a part thereof; and which said tract of 100 acres joins the tract

of land held by the said Wiggins, under the heirs of the said James Piggot as before mentioned, and is near to the town of Illinois.

About the month of December, 1820, said Nicholas Jarrot departed this life, having previously made and published his last will and testament in due form of law, which has been duly admitted to probate in said county of St. Clair, and by said will empowered his widow and executrix, Julie Jarrot, to sell and dispose of such parts of his real estate as she might think proper, in order that she might live in the most easy and independent manner, and devised all his real estate to her for life; which power and contemplated provision for his widow was over and above, and independent of, her right to her own portion of the estate, under the community established by the marriage contract between the said Nicholas Jarrot and his said wife; a copy of which will is exhibited as part of the bill.

The said Julia Jarrot, on the 13th of July, 1822, by her deed of that date, conveyed to the said Samuel Wiggins, in fee simple, the said tract of 400 acres of land, so confirmed under the claim of the said Pierre Codaire, as aforesaid, the title to which was in the said Nicholas Jarrot at the time of his death; and also all the right and title which said Nicholas Jarrot might have had, at the time of his death, to any piece of land lying and being on the said tract of 400 acres; which deed, duly acknowledged and recorded, is exhibited as a part of the bill.

The said Samuel Wiggins, from the time of the conveyance to him by the said Julie Jarrot, as before mentioned, until the time of the sale and conveyance by him as is hereinafter stated, continued in possession of the said tract of land, so acquired by him, and held under the said Codaire and the said Jarrot, embracing the said tract of 100 acres, confirmed to the said Jarrot under said Jean Dumochell.

The complainants state that the bank of the Mississippi river, opposite the town of St. Louis, is an alluvial formation, continually falling into the river, as the action of the water wears away the sand, and there is also, from the character of the stream and of the shores of the river, a very frequent shifting of the current, sometimes forming bars where but a short time before there was deep water, and again sweeping away the sand bars, and in their place establishing for a short time the main current of the river. From this liability to frequent changes in the current of the stream and in its banks, it was necessary for the said Wiggins, in order to fulfil his contract with the State of Illinois, to acquire the title to a large space of land on the bank of the river, in order that he might change the place of landing, as the changes of the river and its banks might require; this necessity was enhanced by the fact that there existed an island in the river opposite to the upper end of the town of St. Louis, which was regularly increasing and extending down the stream, so as to interfere with the direct crossing of the river.

The complainants claim that the said Samuel Wiggins, his heirs and assigns, were entitled, under the act of the general assembly of the State of Illinois before mentioned, approved 2d March, 1819, to the per-

petual franchise of maintaining a ferry across the Mississippi river, from any point near the town of Illinois, from any land that might at any time belong to him or them, so that the conditions of the law were complied with; yet the said Samuel Wiggins, in order to avoid any difficulties or questions that might arise, applied to the general assembly of the State of Illinois; on the 6th day of February, 1821, an act was passed by said general assembly, by which, after reciting that the said Samuel Wiggins, his heirs and assigns, were authorized to establish a ferry on the waters of the Mississippi river, near the town of Illinois, in the State of Illinois, and that a sand bar had been formed since that time opposite said ferry, it was enacted that the said Samuel Wiggins was thereby authorized to remove said ferry on any land that might belong to him on the Mississippi river, and that his heirs or assigns were thereby authorized to remove said ferry to any land that might belong to them on the said Mississippi river, under the same privileges that were presented by the act entitled "an act to authorize Samuel Wiggins to establish a ferry upon the waters of the Mississippi; approved March 2d, 1819, and the complainants present, as part of their bill, the act of the general assembly of the State of Illinois, entitled "an act to authorize Samuel Wiggins to make a turnpike road, and for other purposes."

They state that the said lands acquired by Samuel Wiggins from the said Julia Jarrot, widow, devise and executrix of the said Nicholas Jarrot, deceased, was necessary to the said Samuel Wiggins, and to his heirs and assigns, as owners of the ferry franchise granted by the State of Illinois, as aforesaid, in order to the secure and convenient conduct of the ferry, as the changes of the river might require changes in the places of landing.

The said Samuel Wiggins, on the 1st day of August, 1831, by deed of that date, conveyed all the lands before mentioned as having been acquired under the heirs of James Piggot, deceased, and under the said Codaire, and said Jarrot, to John O'Fallon, Adam L. Mills, Bernard Pratte, now deceased, William C. Wiggins, Samuel C. Christy, now deceased, and Charles Mullikin, together with the ferry franchise as granted to him by the Legislature of the State of Illinois, as appears by the deed, of which a copy is herewith exhibited.

The said John O'Fallon afterwards, by his deed dated February 1st, 1838, conveyed the one half of the interest, acquired by him under the deed of the said Samuel Wiggins, to John H. Gay, in fee simple as appears by the deed of the said O'Fallon, and his wife, to said Gay, a copy whereof is exhibited. And the said John O'Fallon, by his deed of the 18th of December, 1843, conveyed to the said complainant, Andrew Christy, all his remaining interest in said premises, as acquired from said Samuel Wiggins, as appears by the deed of said O'Fallon, exhibited. The said Adam L. Mills, by his deed of the 13th day of October, 1840, conveyed to said Andrew Christy, another of the complainants, in fee simple, one half of the interest and title acquired by him,

said Mills, by the said deed from said Wiggins, in the said lands and ferry franchise, which deed from said Mills to said Christy is exhibited.

The said John O'Fallon, on the 12th of January, 1832, became the purchaser of the tract of land above described as claim 99, survey 579, under and by virtue of the laws of the State of Illinois, for the taxes for the year 1831, with the interest and costs chargeable on said tract of land, and the same was, in pursuance of the laws of Illinois, duly conveyed to said O'Fallon, by the auditor of public accounts of that State, by deed dated 10th February, 1835, which purchase from the State of Illinois, by said O'Fallon, was made by him in his own name for the use of all the owners of said land and ferry franchise, and their assigns and representatives, and the said deed was so held by him in trust for the use aforesaid, until the same was conveyed by the said O'Fallon, as herein stated, which deed is herewith exhibited as part of said bill.

The said John O'Fallon, on the 18th of March, 1844, by deed of that date conveyed, among other things, all the right and title acquired by him in the said tract of land, under his said purchase for taxes as above stated, to these complainants, as appears by the deed therewith exhibited as part of complainants' bill.

After the purchase from said Samuel Wiggins, by the said John O'Fallon, Adam L. Mills, William C. Wiggins, Charles Mullikin, Bernard Pratte, and Samuel C. Christy, said Bernard Pratte and Samuel C. Christy departed this life; the said Bernard Pratte leaving the complainant Emily Pratte, his widow, and the complainants Emily Crooks, Bernard Pratte, Therese Penguet, Celeste Niedlet, Pelagie Bogy, and Diane Blaine, his children and only heirs; and the said Samuel C. Christy, leaving at his death the complainants, Melanie Christy, his widow, and Joseph A. Christy, Elizabeth Christy, and Mary F. Christy, his children and only heirs; which Joseph A. Christy, since the death of the said Samuel C. Christy, has departed this life an infant, and without issue.

By means of which said several conveyances and descents, the said complainants have acquired all the right and title which the said Samuel Wiggins had in and to the land before described, and the ferry franchise granted to him by the State of Illinois as aforesaid, and have furnished suitable means of transportation at said ferry, and proper accommodation for the speedy and secure passage of all persons and property offered to be crossed over said river, using only such boats as are required by said acts of assembly to be used; and the complainants say, that in full faith and reliance upon the inviolability of the contract between the State of Illinois and the said Samuel Wiggins, they have paid and invested a large sum of money in the purchase from the said Wiggins, of his right to the said land and the ferry privilege, to which he was entitled from the grant to said Wiggins, his heirs and assigns, by the State of Illinois; but now, contrary to the wishes and against the consent of complainants, in violation of their rights and of the solemn contract of the State of Illinois, and in violation of the

1st clause of the 10th section of the 1st article of the Constitution of the United States, which prohibits the State from passing any law impairing the obligation of contracts, an act was passed on the 2d day of March, in the year 1839, by the general assembly of the State of Illinois, entitled "an act to authorize St. Clair county to establish a ferry across the Mississippi river, whereby William G. Brown, John D. Hughes, James Anderson, William Penn, and Charles Sargent, of St. Clair county, were appointed commissioners, and were required to examine the ground, and locate a road and ferry landing, between Cahokia creek and the Mississippi river, opposite St. Louis; and it was thereby further enacted, that the said road and ferry landing should be located 300 feet wide, on the most eligible ground for said purpose; and the said road and ferry landing, when so located, and the report of said commissioners filed in the office of the county commissioners' court of said county of St. Clair, should be and remain a public highway forever; and that the county commissioners' court of said county might cause said land, on which said road and ferry landing should have been located, to be condemned, and pay the legal owners of said land the damages sustained by said owners; and if said land should be condemned, and said damages paid out of the funds of the county, the said county commissioners' court should have power, by their agents or otherwise, to enter upon said land so condemned, and establish a ferry across the Mississippi river; and that said county commissioners' court might either carry on said ferry for the county itself, or it might lease the same for any term not exceeding 5 years, at any one time, to any persons; and it was further enacted by said act, that for the purpose of compensating the legal owners for the land thus appropriated, it should be the duty of the commissioners' court to cause the sheriff of St. Clair county to summon 12 men, who should assess the damages which such owners of the land might sustain by reason of the location of said road and ferry landing.

The said commissioners, William G. Brown, John D. Hughes, James Anderson, William Penn, and Charles Sargent, have under color of the last mentioned act of assembly proceeded and laid out, and located said road 300 feet wide across said tract of land belonging to complainants, which is near to the town of Illinois, and have made their report as required by said act of assembly, and, as complainants have been informed; and proceedings have been had for the condemnation of the said land under said act of assembly, by which the damages were assessed at $600, and a verdict for that amount was entered at the April term of the circuit court for Jackson county, Illinois, in the year 1840; but no payment of said damages has ever been made, and no money was ever tendered until the 19th of July, A. D. 1842, at which time the said verdict, including principal and interest, amounted to $680, or thereabouts; and complainants admit, that at the time last specified the sum of $600 (being part of the said $680) was tendered to them, and they refused to accept and receive the sum thus tendered as a compensation for their property thus attempted to be taken from them.

The value of the said 300 feet of land, for the purpose of a ferry landing and a ferry franchise, was not taken into consideration by the court and jury in the said assessment of damages; but, on the contrary, the said court expressly directed and instructed the jury to assess the damages which the complainants would sustain by reason of said road being located on the said land, without any reference to the ferry landing, ferry franchise, and ferry privileges, connected with the said road, and appertaining to said road; and the $600 so assessed was the amount of damages which, in the opinion of the jury, these complainants would sustain by virtue of the location of said road, only after excluding therefrom the injury to complainants by impairing their ferry franchise, and depriving them of the best part of their ferry landing.

The said 300 feet include a wider space and more land than is necessary or convenient for a road, and but a small portion of it has been used and appropriated by the county of St. Clair to that purpose, leaving a strip on either side to be used by the said county of St. Clair, and its lessees, as private property; and that portion of the 300 feet, which is not included in the said road, and which is now used for private purposes, or is left to be thus used, will yield an annual ground rent larger than the whole amount of damages assessed as aforesaid for the whole of said 300 feet.

The said county of St. Clair has through its agent entered upon and taken possession of the whole of said 300 feet of land, and has leased the same, together with the said road and ferry landing, and the ferry established under said last mentioned act of the general assembly of Illinois, to James Harrison, for the term of 5 years; a copy of which lease is exhibited as part of the bill. And said Harrison, as such lessee, has entered upon said 300 feet of ground, and is using the same as his private property, and is actually engaged in running a ferry therefrom, across the Mississippi river to the city of St. Louis, and has thus not only established a ferry rivalling and injuring the ferry of complainants, but is using to their injury what they consider to be a part of their ferry landing, and has deprived them of the use and occupancy of that very portion of their said tract of land which is necessary to the full enjoyment of their ferry franchise, and the full performance of their contract with the State of Illinois.

The said 300 feet of ground (upon which said road and ferry landing have been located by the county of St. Clair) is part of the said tract of land purchased by the said Samuel Wiggins, and appropriated by him to the purposes of a ferry landing as aforesaid, in pursuance of the said two acts of the Illinois Legislature, approved March 2d, 1819, and February 26th, 1821; and now owned by complainants as the assigns of the said Samuel Wiggins, and as heirs, assigns, and representatives, of certain of his assigns. The complainants claim, that by virtue of these two acts of the Legislature of Illinois, and of the purchase of the said tracts of land by the said Samuel Wiggins, and the application of the same to the purposes of a ferry landing in accordance with those

acts, the whole of the said tract of land became the ferry landing of the complainants, appropriated to them by the Legislature of Illinois for that purpose.

The complainants further state, that in consequence of a sand bar (or island) having formed, opposite to their said ferry landing, and having enlarged and varied by the floods in the river, and of the obstructions on the Illinois shore, occasioned by the action of the water and the formation of sand bars, they have been compelled to remove their said ferry landing from time to time, and from place to place, on said tract of land, and were at times in the habit of landing their ferry boats above, below, and in the immediate vicinity of the said 300 feet of ground now used by the said lessee of St. Clair county as a road and ferry landing; and that at different seasons of the year, and at various stages of water in the river, these complainants, on account of the causes and obstruction aforesaid, are compelled to land their ferry boats at different places on their said tract of land, and to change the same as the water in the river may rise or fall; for instance, in high water, they are required to land at one place; in low water at another; and so varying their points of landing, as the water in the river may destroy it at one point, and afford a safe and convenient landing at another, nearly from one end of said tract of land to the other.

During the recent floods, the action of the water has produced such further changes on the banks, and sand bars, and channels of said river, as to render said 300 feet of ground, now used by said lessee of St. Clair county as aforesaid, not only the most convenient point for a ferry landing, but the only point on said tract of land at which boats can be safely landed, where a road approaches the river, or the travel can conveniently reach it, without running up the river, at great trouble and expense, from the lower point of the island below which they cross, a distance of about 600 yards; making the trip about 1200 yards more than complainants would be required to run, if they were allowed to use the said 300 feet of ground which belongs to them as a ferry landing.

During the winter season, while the floating ice is running in the river, the complainants' steam ferry boats, which they have purchased at a great expenditure of money, and are now using for the transportation of passengers and property at their said ferry, cannot run up stream against the rapid current and floating ice, and hence they may be compelled to stop their ferry, violate their contract with the State of Illinois, and forfeit their ferry franchise, unless they are permitted to use the said 300 feet of their own land, of which the said lessee of the County of St. Clair, has deprived them of the possession and use as aforesaid.

The complainants invoke the Constitution of the United States, and particularly the 1st clause of the 10th section of the 1st article thereof, as their protection against the unjust legislation which has been adopted by the general assembly of the State of Illinois, whereby the solemn contract of the State, contained in the grant to Samuel Wiggins, his heirs and assigns, as expressed in the act of assembly of the 2d March,

1819, and the act of the 6th February, 1821, before mentioned, has been most materially impaired, and against the proceedings of the commissioners appointed to lay out said road, and of the county commissioners' court of St. Clair county, in pretending to carry into effect the unconstitutional legislation by taking a part of the very landing or terminus of the ferry of complainants to establish thereon another ferry. Complainants also invoke the constitution of Illinois as their protection against the legislation of the State, and the proceedings under color thereof, whereby the property of complainants has been attempted to be taken for a *private* and not a *public* use, and for the very use for which complainants were applying it, and by which no compensation is provided for them for the damages done to them by the use to which said property is to be applied.

The complainants exhibit, as part of their bill, a plot of a survey made by the surveyor of the city of St. Louis, with the view to improve the harbor of St. Louis, and which exhibits the shore of the river Mississippi as it existed when the public surveys were made of the lands claimed by them under Jarrot, and under the heirs of Piggot, above mentioned, whereby it will appear, that survey No. 624, which is the survey of the tract under the heirs of Piggot, more than the one half, and nearly two thirds of the whole tract had been carried off by the river, when this survey by the surveyor of the city was made; the quantity carried off being greatly increased by the freshet of this present year; and it will further appear, that of survey No. 579, which is the survey under Dumochell, about one third part of the tract has been carried off by the river. Said plot will further shew, that the line which represented the Illinois shore of the river at the period of those surveys, is now in some places near the western shore of that channel of the river, which is on the east of Bloody Island. The size and position of Bloody Island, as it existed at the time of the original surveys in the year 1818, is represented on said plot by the red lines drawn on the figure of said Island as it now exists, with the increase which it has gained at the lower extremity is also shown on said plot, whereby it will appear that the said Island has nearly doubled its length since it was originally surveyed. The said plot also shows, on the Illinois shore, the points on which the road has at different periods reached the river, and where at different times the landing of the ferry of the said Wiggins, and of the complainants, has been; although the points of said landing have been long since far in the river, the roads leading to them show their relative positions and the distances from each other.

The said plot will shew the changes in the landings of the ferry of the complainants, which have become necessary by the changes in the channel of the river, and by the increase of Bloody Island; and it will appear, that it has already been necessary to remove the place of landing about one half mile down the river, from the point at which the ferry was formerly established. The said plot will further shew the course which the boats of the complainants are now compelled to take to cross the river, in order to pass around the lower point on the sand

bar, which continues to increase at the lower point of the Island. The said plot also correctly represents the relative position of the landing now used by complainants, and that used by the said James Harrison for the ferry which he is now conducting; and it will appear to the court, that the very point which he now occupies for the landing of his boats may at any time become absolutely necessary to these complainants for the proper management of their ferry. The said plat will also shew to the court, on the eastern shore of the river, the point on which the landing of the ferry under said Samuel Wiggins was formerly established, being at Oak street, now Morgan street, in the city of St. Louis, which is directly opposite to the highest landing on the Illinois shore; and the said plat will shew how the increase of the length of the Island has compelled a change in the ferry landing on the Missouri shore; which said plat has been made from actual and accurate surveys, and is exhibited as a part of the bill.

The said James Harrison now occupies and uses property of these complainants, which has been attempted to be taken from them by unconstitutional legislation, and is employing it to injure and further to oppress these complainants, and he is so employing the said property under the County of St. Clair.

The bill of the complainants is verified by oath, and on the order of one of the justices of the supreme court a writ of injunction was issued, in accordance with the prayer of the bill against the defendants, their agents, &c.

The defendants demurred generally to the bill of complainants, and the complainants joined in the demurrer; upon argument whereof, and the matters arising thereon, the circuit court sustained the demurrer, and decreed the dismissal of the complainants' bill, and dissolved the injunction granted thereon, and the recovery by the defendants of their costs and charges against the complainants, who have appealed to this court, in which they assign, for error in the proceedings in the circuit court—

The rendering in that court of a decree in favor of the appellees, when, by the laws of the land, the same should have been rendered in favor of the appellants.

That said court decreed a dissolution of the injunction which had been issued in the cause, when, by the laws of the land, the said injunction should have been made perpetual.

That the circuit court dismissed the bill of the said appellants, when, by the laws of the land, the appellants were entitled to the relief prayed in the said bill.

From this statement of the case, it sufficiently appears that on the 4th day of March, A. D. 1820, one year and two days after the passage of the act granting him the ferry franchise, Wiggins was the owner of two undivided seventh parts of the one hundred acres of land designated on the plat as the Piggot claim, and numbered 624, and that on the 19th day of May, A. D. 1821, he acquired title to the residue of said tract.

That on the 13th July, A. D. 1822, he was the owner of the Codaire tract, also designated on the plat, containing 400 acres, and including claims numbered 624, 766, and 579.

And from the large survey and plat exhibited, and made part of the record, it appears that at the time of the filing of complainants' bill, both complainants and defendants' ferry landings were situated on claim No. 579, the title to which was acquired by Wiggins on the 13th July, 1822, one year five months and seven days after the passage of the law of the 6th February, A. D. 1821, allowing said Wiggins to remove his ferry upon other lands that might belong to him.

The title to all the tracts of land thus acquired is by the bill traced sufficiently for the purposes of this suit, by divers mesne conveyances into the present complainants.

Unless it may be inferred from the plat exhibited, it is not shown by the bill upon which particular tract of land Wiggins first established his ferry. Nor when, if he removed the same upon other lands, this removal was made.

We have carefully and attentively considered the questions involved in this case, and have formed our opinions and conclusions upon the most mature deliberation.

That the legislature of the several States possess the power within their limits to establish and regulate ferries, is a principle which at this day cannot be successfully controverted; and that that power is sufficiently extensive to authorize a grant for the construction of such ferry from the Illinois shore, on the waters of the Mississippi, in the manner prescribed by the act of the 2d March, A. D. 1819, we do not entertain a doubt.

A privilege thus conferred in no way conflicts with the provisions of any treaties made by the United States with foreign powers, or with any act or acts of Congress relative to the free navigation of these waters.

A ferry franchise is neither more nor less than a right conferred to land at a particular point, and receive toll for the transportation of passengers and property from that point across a stream. The exercise of such a franchise divests no right or privilege which any citizen theretofore enjoyed, freely and uninterruptedly, to navigate the river.

This right of free navigation can by no manner of means be construed as conferring upon the citizens the right to appropriate the banks or landings of this river to themselves, or to receive toll for transporting passengers and property from point to point across the same.

It is absolutely necessary, for the convenience and accommodation of the public, that this power should reside in and be exercised by the State.

The court are also of opinion, that the grant of a ferry franchise by the legislature of a State, unless limited by some general law, or some restrictive provision in the grant itself, is necessarily exclusive to the extent of the privilege thus conferred.

This principle is so well established that no authority need here be cited in its confirmation. Of all the numerous cases to which reference has been made upon the argument, not one has been produced which in any respect runs counter to it. It is a necessary implication from the grant itself. When a grant has once been made by legislative authority, to the extent of the rights conferred, the power which made it is expended, and it cannot be taken back, or transferred to another, until the public interests and welfare shall demand its resumption, and provision shall have been made for just compensation to the owner in the manner required by law.

Under the then existing laws of this State the grant to Wiggins was essentially a contract between him and the State. By the terms of it, on his part he is bound to run the ferry, to afford at all times a safe and speedy passage to travellers and their property across the river, to keep for this purpose a supply of boats and hands to propell their boats, in the manner directed by the act. And on its part the State contracts that he may run the ferry from lands which may belong to him, near the town of Illinois. The obligations imposed by the act, and the power and ability to perform them, must of necessity be mutual.

The argument of the complainants' counsel, that if rival ferries are permitted to be set up within the limits of the complainants' grant, that they might thus occupy the whole extent of their landing place, and thereby compel them to violate their obligations, and forfeit their franchise, without any fault or negligence on their part, is in our judgment unanswerable in favor of this exclusive right of the complainants.

It would be not only idle, but derogatory to the dignity of a sovereign State, to confer upon an individual privileges, impose duties to be performed, and penalties and forfeitures for their non-performance, and immediately turn round and interpose such obstacles as will utterly preclude the possib lity of a compliance with the conditions thus imposed.

Such a contract, however, is always subject to an implied reservation in favor of the sovereign power—that whenever the public good requires, or the exigencies of the State demand it, all the rights and privileges conferred may be resumed, upon adequate compensation being made therefor. Such resumption, however exclusive may be the terms of the grant, violates no provision of the Constitution of the United States or of the State of Illinois.

But the difficulty (if any exists) in the present case, is not so much in determining what are the general principles of law, as applicable to the questions which arise, as to understand distinctly the nature, extent, and proper construction of the grant itself.

This is a public grant to private persons, chiefly designed by the grantors for the benefit and accommodation of the public. The rule of construction of private grants, if the meaning of the words be doubtful, is that they shall be taken most strongly against the granter. An opposite rule prevails in cases of grants made by a sovereign power. When there is doubt, the construction is made most favorably for the

sovereign, and most strongly against the grantee. It is however to be understood, that this rule holds only in cases of real doubt. If the grant admits of two interpretations, one of which is more extended, and the other more restricted, so that a choice is fairly open, and either may be adopted without any violation of the apparent objects of the grant; if, in such case, one interpretation would render the grant entirely inoperative and worthless, and the other would give it force and effect, the latter, if within the reasonable meaning of the terms employed, should be adopted. But public grants should not be extended by implication in favor of the grantee beyond the natural and obvious meaning of the words employed, even if, by such construction, the object of the grant is utterly defeated. This doctrine will be found to be fully recognised in the case of the Charles River Bridge vs. the Warren Bridge et al., reported in 11th Peters, p. 420, where all the authorities on the subject are collected and reviewed. Let us test the provisions of the grant to Wiggins by these rules, and ascertain to what result we shall arrive.

The 1st section of the act of the 2d March, 1819, is in these words: "That Samuel Wiggins, his heirs and assigns, be, and they are hereby, authorized to establish a ferry on the waters of the Mississippi *near* the town of Illinois, in this State, and to run the same from lands at the said place *that may belong to him*; *provided*, that he shall not use any boat or water craft except such as shall be propelled or urged through the water by steam, horses, oxen, or other four-footed animals; *provided*, also, that the said Samuel Wiggins, his heirs or assigns, shall have said ferry in actual operation within eighteen months from and after the passage of this act."

These are the terms of the grant—

The question is to what extent they operate. Is it or not a reasonable interpretation of the words made use of, that at any period of time, subsequent to the passage of the act, Wiggins should be permitted to purchase any or all the lands *near* the town of Illinois, and exercise an exclusive right to run his ferry from the same, regardless of the growing importance of the State, and the increasing demands of the people, for more extended accommodation.

If such a construction is adopted, what would be the limitation of his right? How near to the town of Illinois must his land be located? How far above and below should it be permitted to extend?

May he be allowed to occupy, as a ferry landing, the whole bank of the Mississippi, opposite the city of St. Louis, extending several miles up and down the river, to the exclusion of other necessary ferries, and to the manifest inconvenience of the public, notwithstanding at the time of the grant he might have owned no land whatever upon the stream?

Do the words made use of naturally or rationally import that, at any future period, Wiggins shall possess a perpetual right to purchase lands near the town of Illinois, and at his pleasure to make the same the ter-

minus of his ferry. The ferry by the terms of the grant is to be established and in operation within eighteen months. If the grantee, by any construction of the law, could be allowed to purchase the land on which to locate it within that time, no good reason can be seen why, afterwards, he may not at any period purchase more adjoining, and so from time extend his landing until he should occupy the whole bank of the Mississippi, *near* the town of Illinois, the extent of which would of necessity be indefinite.

Wiggins, his *heirs* and *assigns*, are authorized to establish the ferry upon the Mississippi river, *near* the town of Illinois, and to run the same from lands at that place that may belong to him.

These words of the grant limit its operation to "*lands which may belong*" to Wiggins himself, and necessarily by their terms prohibit the running of the ferry from any lands which his *heirs* or *assigns* might subsequently acquire. It could only have been designed that his heirs and assigns should succeed to the rights and interests acquired by him at the passage of the law, to run the ferry from *his* land, and not from *theirs*.

Had the legislature intended to extend *to extend* this grant to other lands than those which were owned by Wiggins at the date of the act, had they intended to bestow upon him the right to purchase, it is singular that they make no use of any words from which, by any reasonable intendment, these rights can be deduced.

The authority to *establish* the ferry is to *Wiggins, his heirs and assigns*. But it is to be established upon lands that may belong to *him*, not to him, his heirs or assigns. His heirs or assigns might have established the ferry, but where must this have been? If Wiggins had died before the passage of the act of the 6th of February, 1821, and before he had acquired the title to any land *near* the town of Illinois, could his heirs or assigns have purchased lands upon which this grant could have taken effect? In such case the ferry could not have been set up, upon lands which *had* belonged, or which *might* belong, to him.

The authority being to *him, his heirs and assigns*, and the place or location appointed upon "*lands that may belong to him*," only make it most apparent to the court, that the grant, by any proper and rational construction, could only operate upon lands which Wiggins owned at the time of the passage of the laws conferring it. Any other interpretation it seems to us would be absurd, and lead to dangerous and alarming consequences.

It is no where said in this act that the ferry may be established upon lands which might at that time belong to the *heirs* or assigns, and yet they are permitted to establish it "*upon lands which may belong to him.*" If *he* might purchase lands for this purpose after the grant, why are his heirs and assigns prohibited from doing the same, if it was designed that the grant should operate upon lands other than those owned by *him* at the time it was made? Suppose at this time Wiggins had been the owner of land near the town of Illinois, extending one mile up

and down the river, and within a short period of time, say within eighteen months thereafter, he had purchased one mile more adjoining the same, what, according to the principles of construction before laid down, would have been the extent of his grant?

If he had owned land at the time, could he have purchased more, and in this manner have extended his franchise co-extensive with his title, and claimed the exclusive right which is given him by the second section of the act to prohibit the establishment of any other ferry within one mile of his limits thus defined?

If such a state of facts would not present a clear case against him, it could hardly be questioned, that the extent of his grant would rest in doubt. In such a case, the more extended or more restricted construction would not defeat the object of the grant. And the rule undoubtedly would be to adopt the less extended one, which would operate most beneficially in favor of the grantor.

It is evident from the second section of this act of 1819, that the legislature intended that Wiggins should have an exclusive right for one mile on each side of the ferry to be by him established, until the public good demanded a repeal of so much of this section as conferred it, of which they reserved to themselves the right to judge. This was part and parcel of this contract or reservation in favor of the State.

A right by the repeal of so much of that section as prohibited the establishment of other ferries within one mile of Wiggins' ferry, on the 19th day of January, A. D. 1833, the State resumed.

But this reservation would have been of little moment, if, within the eighteen months allowed to Wiggins to put his ferry in operation, or afterwards, he could have purchased all the lands upon the bank of the river, near the town of Illinois, converted the whole into a ferry landing, and thus extended his privilege so as totally to defeat the object of the legislature in the repeal of this portion of the law.

The term "*land which may belong to him,*" as used and applied by the law makers in this act, by a proper and rational construction under the rule as before adopted, in our judgment, means neither more nor less than "*lands belonging to him*" in the then present tense.

The legislature evidently acted upon the presumption that he was the owner of *some* land at the place where he designed to establish his ferry, suitable for that purpose.

The time allowed him to put his ferry in operation was not given to afford him opportunity to acquire land upon which the grant could take effect, but to allow him a reasonable time to make the necessary preparation to build his boats, erect his wharves, and provide himself with the necessary materials for successful operations.

Had it been the intention of the act, or those who made it, that he should run his ferry from lands which he might afterwards acquire, it would have been easy and natural that it should have been so expressed. And, even in that case, this acquisition must have been made within the period of eighteen months; because, within that time, the ferry must have been in operation, and by no construction of the law

could it have been located upon any except his own land. When once located, it could not be removed without the consent of the grantor of the right.

Not that the privilege must be confined to the precise spot of ground, upon which the first landing was effected, but that it must be limited to that particular terminus upon which the grant, at the time it was made, must operate, is most apparent. If, at this period, Wiggins had been the owner of several distinct and detached parcels of land upon the Mississippi, near the place contemplated by the law; for instance, one above and one below the town of Illinois, equally distant from the same, and had established his ferry upon, and run his boats from the *one* tract, could it be contended that he might afterwards, and upon his own motion, by virtue of any right derived to him through the grant, remove the same upon the other tract; and thus, although other lands of more than one mile in extent might intervene, prevent the establishment of another ferry within one mile of either of his tracts.

As if the land upon which his ferry had been established had been entirely swept away by the waters of the river, was this grant designed to operate forever prospectively, in favor of the grantee, and his successors, to authorize them to run a ferry from any land which they may still acquire.

Does the whole eastern bank of the Mississippi river, opposite the city of St. Louis, for ferry purposes, belong to these complainants, their heirs and assigns, forever?

The legislature must confer this right in language more clear and unequivocal, before this court can intend it.

Authorities are not wanting to prove, that when a party has his option to set up his franchise, at one place or another, with an exclusive right within a given distance of either, and he elects his situation, he cannot afterwards remove the same, (although his privilege has been destroyed without fault or negligence on his part,) to the other place where he might have chosen his location; and then claim the exclusion to which he might (had he so elected) have been entitled from the latter place.

The case of the Cayuga Bridge Company vs. Magee, reported in the 8th of Wendell, is in point; and if, as we doubt not, the principles there settled are sound law, has material bearing upon the questions here involved.

The State of New York, by act of their legislature, granted to the complainants in that suit a charter, empowering them to build a bridge over the Cayuga lake, *or* outlet at their option, without any designation of the place.

The act also prohibited any other person from erecting any bridge within three miles of the one established by the company.

They built their bridge across the lake, it remained for some years, and was swept off by the ice. Under the impression that their grant was still in force and operation for their benefit, and that their right of selection as to location still remained, they constructed a second bridge

two miles north of the former one, and subsequently under another grant amendatory to the first, which conferred upon them all the privileges enjoyed by them under their original charter, they built a new bridge on the site of the old one, which had been carried off by the ice; and, under this state of facts, contended that they had an exclusive right extending three miles from each of their bridges thus erected.

The court held that, having once made their location, the power of the grant was spent, that their right was no longer ambulatory, and intimate that it followed as a consequence, that after their first bridge was destroyed the company had no longer the right to rebuild it at any other place than the one first selected, and held distinctly, that if that right did exist, still their exclusive privilege could only extend three miles from the site of the first bridge erected.

One of the senators in his opinion says, "the prohibition attached to the *place* where the bridge was built, and not to the bridge itself. They surely did not move that place by moving the location or site of the bridge; and, unless they did, the exclusive limits must remain the same in extent and situation as they were before the construction of the second bridge.

So we hold in the present case, when the complainants here, or those under whom they claim, had once set up their franchise, they were bound by their location, and that in no event could their limits or exclusive right extend beyond the lands they owned at the time of such location, and one mile on each side thereof.

For as much then, as it appears by the complainants' bill in this case, that at the time of the passage of the act of 1819, before referred to, neither the complainants nor their grantors owned any land upon the Mississippi, near the town of Illinois, upon which the grant could operate, the court are of opinion, that had it not been for the supplemental act of the 6th of February, A. D. 1821, the complainants could not exercise any exclusive rights of ferriage at the place before referred to.

The fact that Wiggins himself applied to the legislature at this time for leave to remove his ferry upon any lands which might belong to him, (although by no means conclusive) furnishes some evidence that his understanding of the contract was, that his franchise was not of an ambulatory character.

The preamble to that act recites, as a reason for such removal, that "since the establishment of the ferry a sand bar had formed opposite to said ferry."

This preamble properly comes in to aid us in giving construction to this, as well as the former act, with reference to the location of the franchise.

It is an admission that at this time the ferry was established at a certain place, and that a sand bar had been formed opposite thereto. And he, his heirs and assigns, seek the permission of the legislature to remove it "upon other lands which may belong to him or them." This was granted, under the same privileges prescribed by the former

act, and Wiggins, his heirs and assigns, are authorized to remove the ferry upon any lands near the town of Illinois which may belong to him or them.

The difference in the language here employed, and that made use of in the former act, does not, except so far as change in location is concerned, mutually change the nature of the grantees' rights.

He, his heirs or assigns, must be allowed a reasonable time after the passage of the law to remove the ferry upon other lands which he or his assigns might then own, or his heirs might, in the contingency of his death, through him inherit, before the reasonable time for such removal had transpired. We must either give the act this construction, or determine that the complainants' rights are without limit, and their franchise boundless, both in extent and time. This we must doubt at least, and such a doubt, if well founded, determines the question in favor of the grantor, the sovereign power.

At the period of time last alluded to, Wiggins had sufficient title to the Piggot tract of one hundred acres, claim numbered 624, upon which the grant could operate, and the act gave him the exclusive right to a ferry from that tract; and, until the repeal of the second section of the act of 1819, a like exclusive right to one mile on each side thereof.

From a careful investigation of the whole subject, a due and proper consideration of the grant, and the rules of construction applicable to the same, we are constrained to hold that *his* and his successors' rights are bounded and limited here. That this land constitutes his terminus. The boundary which circumscribes his franchise. And that if other lands, subsequently acquired by him or them, has become necessary to the full and free enjoyment of the same, he or they must resort to the legislature, and not to the courts of justice, for an extension of the limits of the same.

The defendants' ferry is not located upon this tract. It does not interfere with the contract between the State and the complainants, or their grantors. It may subtract from the tolls and profits which complainants would otherwise receive and enjoy, even to such an extent as to render their franchise entirely valueless; but does not violate or impair the obligation of the contract.

Suppose that the terminus of this ferry of the complainants had been specifically defined by metes and bounds, and put into successful and profitable operation, would any one doubt the right or power of the legislature to charter a company to build a bridge immediately adjoining the complainants' landing place, upon their land, (on making adequate compensation for the land alone,) which, by the superior facilities it would afford, would totally destroy the value of the ferry?

In all grants or contracts of this sort, made or entered into by a sovereign power, this right is a necessary reservation, and the grantee enters into the contract with this implied restriction and limitation.

Although his profits may be diminished, his legal rights are not impaired.

It is no more to be implied from such a grant, that others of a similar character will not be made, which may indirectly interfere with the profits of the first, than it is to be inferred, when the United States grants a tract of land on the Mississippi river to one who purchased with a view of furnishing steamboat fuel from the same, that no other grant of land in the same vicinity should be made, whereby the second purchaser might interfere with the intended speculation or business of the first.

In such case like the present, the first grantee might be materially injured, but it would be an injury without remedy.

It is contended by the complainants' counsel, that the act of the legislature of this State, of the second March, A. D. 1839, is repugnant to the first clause of the tenth section of the first article of the Constitution of the United States, which prohibits the States from passing any laws impairing the obligation of contracts; and also to the eleventh section of the 8th article of the constitution of this State, which provides that "no man's property shall be taken or applied to public use, without the consent of his representatives in the general assembly, nor without just compensation being made him."

We have alrea y seen that the establishment of defendants' ferry, either with or without the act of the legislature of this State, authorizing the same, does not impair the obligation of any contracts between the State and these complainants.

It remains to be determined, whether any of the provisions of the act before referred to are opposed to the provisions of the constitution of this State above recited; and if in any respect they should be found to be in conflict therewith, either in terms or in the use to which they have been applied, the complainants have sought their appropriate remedy against their operation.

By this act certain persons are appointed commissioners to locate a road and ferry landing, between Cahokia creek and the Mississippi river, three hundred feet in width, on the most eligible ground for that purpose. They are to report the same, when located, to the clerk of the county commissioners' court of St. Clair county, and the same, when so located, is to be and remain a public highway forever. The land is to be condemned, and the damages paid to the owners out of the funds of the county of St. Clair; and after the damages are paid, the county commissioners' court, by their agents or otherwise, are authorized to enter upon the same, and establish their ferry across the Mississippi river, to carry on the ferry themselves, or to lease it for a period not exceeding nve years at a time. The act further provides, that these damages shall be ascertained by a jury of disinterested men, to be summoned by the sheriff of the county of St. Clair, and for an appeal from their verdict, in case either party should be dissatisfied therewith, to the circuit court of said county.

This is the substance of the act. It directs private property to be taken for a public use, and not a private one.

It is only the exercise of such power as the legislatures of all the States of this Union have heretofore assumed the right to exercise, whenever in their opinion the public good required it.

It authorizes the location of a road and ferry landing, not at any particular, but at the most eligible point, in the discretion of the commissioners appointed to select the same.

It provides a just compensation for the payment of such damages as the owner may sustain, and makes the payment of these damages a condition precedent to the right to occupy the same by the defendants.

The place selected, as has before been shown, did not interfere with the terminus of the complainants' ferry, and consequently they can have no damages on account of deduction from their tolls, or other merely consequential injury.

The damages were assessed and paid, or, what is equivalent thereto, were tendered on the nineteenth day of July, 1842, and it nowhere appears from the complainants' bill, that the defendants entered upon the land previous to the time of the tender of the money due for the damages so assessed.

In fact, the lease to Harrison, which is referred to and made an exhibit in the bill, and which bears date the sixteenth day of January, A. D. 1844, tends strongly to prove that possession was not taken of the road and ferry landing until this time, which was long after the money for the damages had been tendered by the defendants.

It is intimated, if not directly averred in the complainants' bill, that the public convenience does not require at this place three hundred fee in width for a road, and that the soil which the same passes over is appropriated to private, and not to public purposes.

This certainly, if true, could not make the law itself unconstitutional.

Whether private property, and if so, how much, shall be taken for the public use, is of a matter which of necessity must rest in the discretion of the legislature.

To determine these questions *it* is the sovereign power. No appeal from, or review of, its judgment can be had. The power may be sometimes injuriously or oppressively exercised, but this can be no argument against its existence.

So long as the legislature confines itself within the limits of the constitution, and provides a just compensation for private property, which is deemed essential to the public use, the party whose property is taken is remediless, unless he can convince them that justice and good faith should induce them to retrace their steps.

Could the idea be for a moment entertained, that if the legislature should provide, by law, that a certain public road should be laid out and opened six rods wide, that a court of equity could interfere in favor of the owner of the land over which it passed, because it might be alleged that four rods in width was amply sufficient for public benefit and accommodation?

The charge in the bill, that the defendants are appropriating the land over which this road passes to their private purposes, if for the purposes of this suit the court could notice it, is of too vague and uncertain a character on which to found a decree for their relief.

The soil, the freehold, is still theirs. The defendants can only use it for a road and ferry landing. For aught that appears to the court, the complainants have an adequate remedy at law for any improper use to which it may be appropriated.

On account of the importance of the questions, and magnitude of the interests involved, the court have examined this case with much care. We have endeavored to gather the intention of the legislature from the words of the enactments; we have deemed it the only rule which we could safely and legally adopt in their interpretation.

We have not felt ourselves at liberty to travel back to the period of time when these events occurred, and make use of our own or others' knowledge of facts and circumstances cotemporary with the grant, and thus attempt to determine, by matters not in the record or the laws, what was the real intention of the legislature, contrary to the spirit and meaning of the language by them employed.

We have endeavored not to *make* the law, but to decide it as it is.

And although hasty and inconsiderate legislation may sometimes render it difficult to ascertain the true interpretation of the whole of a particular act, yet if, in construing public grants, we adhere to the sound principles recognised by the most approved authorities, that in doubtful cases the words are to be taken and understood as operating most strongly against the grantee, and in favor of the public, we shall seldom do justice to the people or the parties litigant.

The court is of opinion that in the decree of the circuit court, dissolving the injunction and dismissing the complainants' bill, there is no error. The decree is therefore affirmed with costs.

ADAM L. MILLS et al.
vs.
THE COUNTY OF ST. CLAIR et al.

On this day came the said plaintiffs, by D. J. Baker, their attorney, and moved the court to allow an appeal in this cause from the decision of this court to the Supreme Court of the United States.

And afterwards, to wit, on Wednesday, the twenty-eighth day of January, in the year of our Lord one thousand eight hundred and forty-six, as of the December term of said supreme court, in the year of our Lord one thousand eight hundred and forty-five, the following order was entered of record on the records of said court:

Present the honorable Thomas C. Browne,
" " Samuel D. Lockwood,
" " Walter B. Scates,
" " Samuel H. Treat,
" " Richard M. Young,
" " John D. Caton,
" " Gustavus P. Koerner,
" " Norman H. Purple.

ADAM L. MILLS et al.
vs.
THE COUNTY OF ST. CLAIR et al.

On this day came the said plaintiffs, by D. J. Baker, and moved the court to have the following order entered of record: "It is ordered by the court that it be certified in this case, that there was drawn in question the validity of the statute of the State of Illinois, entitled 'an act to authorize St. Clair county to establish a ferry across the Mississippi river,' approved March 2d, 1839, on the ground that it was repugnant to the Constitution of the United States, and that the decision of the court was in favor of the validity of the said Statute," which motion was resisted by Trumbull, on the part of the defendants; and the court not being sufficiently advised, took time to consider.

And afterwards, to wit, on Thursday, the fifth day of February, in the year of our Lord one thousand eight hundred and forty-six, as of the December term of said supreme court, in the year of our Lord one thousand eight hundred and forty-five, the following order was entered of record on the records of said court, to wit:

Present the honorable Thomas C. Browne,
" " Walter B. Scates,
" " Samuel H. Treat,
" " Richard M. Young,
" " Gustavus P. Koerner,
" " Norman H. Purple.

ADAM L. MILLS et al.
vs.
THE COUNTY OF ST. CLAIR et al.

It is ordered by the court, that it be certified in this case, that there was drawn in question the validity of the statute of the State of Illinois, entitled "an act to authorize St. Clair county, to establish a ferry across the Mississippi river," approved March 2d, 1839, on the ground that it was repugnant to the Constitution of the United States, and that the decision of the court was in favor of the validity of said statute.

And afterwards, to wit, on Friday, the sixth day of February, in the year of our Lord one thousand eight hundred and forty-six, as of the December term of said supreme court, in the year of our Lord one thousand eight hundred and forty-five, the following order was entered of record on the records of said court:

Present the honorable Thomas C. Browne,
" " Walter B. Scates,
" " Samuel H. Treat,
" " Richard M. Young,
" " Gustavus P. Koerner,
" " Norman H. Purple.

It is ordered by the court, that Samuel H. Treat, one of the justices

hereof, be appointed presiding justice of the said supreme court, during the absence of the chief justice.

I, Ebenezer Peck, clerk of the supreme court of the State of Illinois, do hereby certify, that the foregoing pages contain a true, full, and correct copy of all the papers filed in the said court, and also of all the orders, judgments, and opinions of the said supreme court, in the above entitled cause.

In testimony whereof, I have hereunto set my hand and affixed the [SEAL.] seal of the said supreme court at Springfield, this twenty-seventh day of April, in the year of our Lord one thousand eight hundred and forty-six.

E. PECK, *Clerk Sup. Court.*

The United States of America, to the County of St. Clair and James Harrison, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of December next, pursuant to a writ of error, filed in the clerk's office of the supreme court of the State of Illinois, wherein Adam L. Mills, John H. Gay, Charles Mullikin, John O'Fallon, William C. Wiggins, Andrew Christy, Elizabeth Christy, Mary T. Christy, Melanie Christy—which Melanie is the widow, and which said Elizabeth and Mary T. Christy are the only children and heirs at law of Samuel C. Christy, deceased—minors, suing by said Melanie, their next friend; Emily Pratte, widow of Bernard Pratte, deceased; Ramsey Crooks and Emily, his wife, Bernard Pratte, Louis Penguet and Therese, his wife, Stephen F. Niedlet and Celeste, his wife, Louis V. Bogy and Pelagie, his wife, and Joseph Blaine and Aimi, his wife, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why judgment rendered against the said plaintiffs in error, as in the said writ of error mentioned, should not be corrected, and why justice should not be done to the parties in that behalf.

Witness the honorable Samuel H. Treat, presiding justice of the supreme court of the State of Illinois, this 6th day of February, in the year of our Lord one thousand eight hundred and forty-six.

SAMUEL H. TREAT,
Presiding Justice.

STATE OF MISSOURI, *county of St. Louis.*

STATE OF ILLINOIS, *St. Clair county:*

This day personally appeared before the undersigned, clerk of the circuit court of St. Clair county, Samuel B. Chandler, sheriff of said county, who, being duly sworn, doth depose and say, that on the 27th day of March, A. D. 1846, at the county of St. Clair, he served the within citation upon the County of St. Clair, by delivering a copy thereof to Simon Stookey, Richard Bradsley, and Ausby Fike, the county commissioners of said county, whilst the · as such commission-

ers, were convened in open court in said county, and holding the county commissioners' court of St. Clair county, State of Illinois, and by delivering a copy thereof to William McClintock, the clerk of the said court.

SAMUEL B. CHANDLER,

Sworn to before me, this 27th day of March, A. D. 1846.

Witness, THEO'D ENGELMANN,
Clk. of St. Clair circuit court, of said county of St. Clair, and the seal of said court hereto affixed at office.

[SEAL.]

STATE OF MISSOURI, *County of St. Louis, ss:*

Personally appeared before me, the undersigned, a justice of the peace within and for the county aforesaid, Amos Gale, and made oath that, on the 13th day of June, 1846, he served a true copy of the within citation upon James Harrison, of the city of St. Louis, and county aforesaid.

AMOS GALE.

Sworn to and subscribed before me, the 13th day of June, 1846.

PETER CRUESS,
Justice of the Peace.

The United States of America, to the County of St. Clair and James Harrison, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Illinois, wherein, Adam L. Mills, John H. Gay, Charles Mullikin, John O'Fallon, William C. Wiggins, Andrew Christy, Elizabeth Christy, Mary T. Christy, Melanie Christy—which Melanie is the widow, and which said Elizabeth and Mary T. Christy, are the only children and heirs at law of Samuel C. Christy, deceased— minors, suing by said Melanie, their next friend; Emily Pratte, widow of Bernard Pratte, deceased; Ramsey Crooks and Emily, his wife, Bernard Pratte, Louis Penguet, and Therese, his wife, Stephen F. Niedlet and Celeste, his wife, Louis V. Bogy and Pelagie, his wife, and Joseph Blaine and Aimie, his wife, are plaintiffs in error, and you are defendants in error, to shew cause, if any there be, why judgment rendered against the said plaintiffs in error, as in said writ of error mentioned, should not be corrected, and why justice should not be done to the parties in that behalf.

Witness the honorable Samuel H. Treat, presiding justice of the supreme court of the State of Illinois, this sixth day of February, in the year of our Lord one thousand eight hundred and forty-six.

SAMUEL H. TREAT,
Presiding Justice.

Know all men by these presents, that we, Andrew Christy, principal, and Andrew Christy, security, are held and firmly bound, unto

the county of St. Clair and James Harrison, in the full and just sum of ten thousand dollars, to be paid to the said County of St. Clair and James Harrison, their certain attorney, successors, executors, administrators or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrator, jointly and severally, by these presents. Sealed with our seals, and dated this sixth day of February, in the year of our Lord one thousand eight hundred and forty-six.

Whereas lately, at a supreme court of the State of Illinois, in a suit depending in said court, between Adam L. Mills, John H. Gay, Charles Mullikin, John O'Fallon, William C. Wiggins, Andrew Christy, Elizabeth Christy, Mary T. Christy, Melanie Christy—which Melanie is the widow, and which said Elizabeth and Mary T. Christy are the only children and heirs at law of Samuel C. Christy, deceased—minors, suing by said Melanie their next friend; Emily Pratte, widow of Bernard Pratte, deceased; Ramsey Crooks and Emily, his wife, Bernard Pratte, Louis Penguit and Therese, his wife, Stephen F. Niedlet and Celeste, his wife, Louis V. Bogy and Pelagie, his wife, and Joseph Blaine and Aimie, his wife, plaintiffs in error, and the County of St. Clair and James Harrison, are defendants in error, judgment was rendered against the said Adam L. Mills, John H. Gay, Charles Mullikin, John O'Fallon, William C. Wiggins, Andrew Christy, Elizabeth Christy, Mary T. Christy, Melanie Christy, which Melanie is the widow, and which said Elizabeth and Mary T. Christy are the only children and heirs at law of Samuel C. Christy, deceased, minors, suing by said Melanie, their next friend; Emily Pratte, widow of Bernard Pratte, deceased; Ramsey Crooks and Emily, his wife, Bernard Pratte, Louis Penguit and Therese, his wife, Stephen F. Niedlet and Celeste, his wife, Louis V. Bogy and Pelagie, his wife, and Joseph Blaine and Aimie, his wife, having obtained a writ of error, and filed a copy thereof in the clerk's office of the said court, to reverse the judgment in the aforesaid suit, and a citation directed to the said County of St. Clair and James Harrison, citing and admonishing to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of December next. Now, the condition of the above obligation is such, that if the said Adam L. Mills, John H. Gay, Charles Mullikin, John O'Fallon, William C. Wiggins, Andrew Christy, Elizabeth Christy, Mary T. Christy, Melanie Christy—which Melanie is the widow, and which said Elizabeth and Mary T. Christy are the only children and heirs at law of Samuel C. Christy, deceased—minors, suing by the said Melanie, their next friend; Emily Pratte, widow of Bernard Pratte, deceased; Ramsey Crooks and Emily, his wife, Bernard Pratte, Louis Penguit and Therese, his wife, Stephen F. Niedlet and Celeste, his wife, Louis V. Bogy and Pelagie, his wife, and Joseph Blaine and Aimie, his wife, shall prosecute their writ to effect, and answer all damages and costs if they fail to make their plea

good, then the above obligation to be void, else to remain in full force and virtue.

ANDREW CHRISTY, [SEAL.]
ANDREW CHRISTY, [SEAL.]
[SEAL.]

Sealed and delivered in presence of—

Approved by Samuel H. Treat, presiding justice of the supreme court of the State of Illinois.

SAMUEL H. TREAT,
Presiding Justice.

The foregoing bond is approved and taken by consent of the parties, the defendants in error waiving all exceptions to the security.

S. T. LOGAN, *For plffs. in error,*
L. TRUMBULL, *For defts in error.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the honorable the judges of the supreme court of the State of Illinois, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said supreme court of the State of Illinois, before you, or some of you, being the highest court of law or equity of the said State, in which a decision could be had, in the said suit between Adam L. Mills, John H. Gay, Charles Mullikin, John O'Fallon, William C. Wiggins, Andrew Christy, Elizabeth Christy, Mary T. Christy, Melanie Christy—which Melanie is the widow, and which said Elizabeth and Mary T. Christy are the only children and heirs at law of Samuel C. Christy, deceased—minors, suing by said Melanie, their next friend; Emily Pratte, widow of Bernard Pratte, deceased, Ramsey Crooks and Emily, his wife, Bernard Pratte, Louis Penguet and Therese, his wife, Stephen F. Niedlet and Celeste, his wife, Louis V. Bogy and Pelagie, his wife, and Joseph Blaine and Aimie, his wife, plaintiffs in error, and the County of St. Clair and James Harrison, defendants in error; wherein was drawn in question the validity of a treaty, or statute of, or an authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of a treaty, or statute of, or commission held under, the United States, and the decision was against the title, right, privilege, or exemption, specially set up, or claimed, under such clause of the said Constitution, treaty, statute or commission, a manifest error hath happened to the great damage of the said Adam L. Mills, John H. Gay, Charles Mullikin, John O'Fallon, William C. Wiggins, Andrew Christy, Elizabeth Christy, Mary T. Christy, Melanie Christy—which said Melanie is the widow, and which

said Elizabeth and Mary T. Christy are the only children and heirs at law of Samuel C. Christy, deceased—minors, suing by said Melanie, their next friend; Emily Pratte, widow, of Bernard Pratte, deceased; Ramsey Crooks and Emily, his wife, Bernard Pratte, Louis Penguet and Therese, his wife, Stephen F. Niedlet and Celeste, his wife, Louis V. Bogy and Pelagie, his wife, and Joseph Blaine and Amie, his wife, as by their complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court, this first Monday of December, in the year of our Lord one thousand eight hundred and forty-five.

WM. POPE, *Clerk Cir. Ct.*
U. S. Dist. Illi's.

Allowed by Samuel H. Treat, presiding justice of the supreme court of the State of Illinois.

SAMUEL H. TREAT,
Presiding Justice.

Filed 7th Dec., 1846.